



International  
Labour  
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▶ ILO Flagship Report

▶ **Social  
Dialogue  
Report**  
**2022**

Collective  
bargaining  
for an inclusive,  
sustainable and  
resilient recovery



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## ► Preface

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The world is still reeling from the social and economic crisis induced by the COVID-19 pandemic. Essential public health measures taken to contain the virus upended the world of work and jeopardized businesses. Millions of workers served on the front lines of the battle against the virus, putting their lives at risk. To maintain continuity, many workers shifted to telework. Hundreds of millions of others either had their work suspended or lost their jobs as a result of workplace closures. In addition to the significant income-support measures taken by many governments to cushion the effects of the crisis, for workers and employers what mattered most was whether the institutions governing work could serve as a source of resilience and mitigate the widening inequalities.

As the world looks to recovery, questions remain as to how we will ensure that the recovery is human-centred – restoring the social fabric weakened by fraying labour markets and revaluing work that is deemed essential to the functioning of our societies. Many changes that were under way before the pandemic have even accelerated, such as technological and environmental transformations, and it is critical that we make the most of the opportunities these transitions hold for sustainable enterprises and decent work.

First and foremost, we need to reaffirm the democratic principles and rights that give employers and workers a voice in the governance of work: freedom of association and the effective recognition of the right to collective bargaining. These founding principles of the ILO not only provide the democratic foundations of labour markets but they also reflect the democratic values of our societies. They enable the development of strong and representative workers' and employers' organizations that can shape the trajectory of recovery through effective social dialogue. Their actions and agreements can pave the way for a human-centred recovery that is inclusive, sustainable and resilient.

This first ILO flagship *Social Dialogue Report* focuses on collective bargaining. It stresses the importance of these democratic principles as the bedrock of stable and just workplaces, industries and societies. It describes the contribution that employers and workers can make to the inclusive and effective governance of work. Most importantly, it shows once again what is practically possible when the parties come together to negotiate and jointly agree on matters of importance to both, in periods of prosperity and during crises. It also demonstrates how collective agreements can be a source of resilience, of solidarity and inclusion and of transformative change, ensuring sustainable enterprises and decent work for all.

Our task ahead is to continue to promote these fundamental democratic principles and rights at work, in all parts of the world and for all employers and workers, recalling that, as stated in the Preamble to the ILO Constitution of 1919, “universal and lasting peace can be established only if it is based upon social justice”.

Guy Ryder





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The report was authored by (in alphabetical order) Magdalena Bober (ACT/EMP), Ariel Castro (ACTRAV), Elizabeth Echeverría Manrique (GOVERNANCE), Susan Hayter (GOVERNANCE), Mélanie Jeanroy (ACTRAV), Dora Katalin Sari (Department of Statistics – STATISTICS), Mária Sedláková (GOVERNANCE) and Tvisha Shroff (PhD candidate, University of Cambridge). Quentin Mathys (STATISTICS) was the statistician for the report. Maria Magdalena Bastida Antich (GOVERNANCE) provided valuable research assistance. Substantive contributions to the report were made by Xavier Beaudonnet (International Labour Standards Department – NORMES) (Chapters 2 and 5); Konstantinos Papadakis (GOVERNANCE) (Chapters 5 and 7); Arianna Rossi (GOVERNANCE) (Chapters 3 and 5); and Catarina Braga (Conditions of Work and Equality Department – WORKQUALITY) (Chapter 2). The report was coordinated by Susan Hayter (Lead Researcher, GOVERNANCE). Germaine Ndiaye-Guisse, Yuka Okumura and Anne Sullivan (all from GOVERNANCE) provided budgetary and administrative assistance. Judy Rafferty (Department of Research – RESEARCH) coordinated the work planning, editing, translation of the report into French and Spanish, and production of the report.

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# ► Abbreviations

<b>CAS</b>	Conference Committee on the Application of Standards
<b>CBA</b>	collective bargaining agreement
<b>CEACR</b>	Committee of Experts on the Application of Conventions and Recommendations
<b>CFA</b>	Committee on Freedom of Association
<b>COVID-19</b>	coronavirus disease
<b>CPI</b>	consumer price index
<b>EBMO</b>	employer and business membership organization
<b>EPZ</b>	export processing zone
<b>ETUC</b>	European Trade Union Confederation
<b>EU</b>	European Union
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>ICT</b>	information and communications technology
<b>IFC</b>	International Finance Corporation
<b>IOE</b>	International Organisation of Employers
<b>ITUC</b>	International Trade Union Confederation
<b>MSMEs</b>	micro, small and medium-sized enterprises
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>OSH</b>	occupational safety and health
<b>PPE</b>	personal protective equipment
<b>SDG(s)</b>	Sustainable Development Goal(s)
<b>SMEs</b>	small and medium-sized enterprises
<b>UN</b>	United Nations

## ► Executive summary

Concerns have been growing over rising inequality in earnings and widening gaps in labour market opportunities. This is mirrored by sluggish productivity growth on the one hand, and a declining labour income share on the other. The COVID-19 pandemic has exacerbated these inequalities and exposed existing vulnerabilities in economies, labour markets and societies. Measures taken to contain the spread of the virus resulted in the loss of earnings for millions of enterprises and hundreds of millions of workers. Business continuity was jeopardized. A clear distinction emerged between those who were able to adapt their working patterns and shift to telework, and those whose work was suspended or who lost their employment altogether: the former often better remunerated, the latter frequently among the low-paid. The ILO estimates furthermore that in 2022, global unemployment will stand at a staggering 207 million people, compared to 186 million in 2019 (ILO 2022).

**Collective bargaining has played a role in mitigating the impact of the COVID-19 crisis on employment and earnings, helping to cushion some of the effects on inequality while reinforcing the resilience of enterprises and labour markets. The tailoring of public health measures and strengthening of occupational safety and health (OSH) at the workplace, together with the paid sick leave and healthcare benefits provided for in many collective agreements, have protected many workers and supported the continuity of economic activity. Agreements negotiated in response to the COVID-19 crisis-induced experimentation with telework and hybrid work are transforming these practices and paving the way for a future with decent digital work.**

## Collective bargaining and the governance of work

### What is collective bargaining?

**Collective bargaining is a process of voluntary negotiation between one or more employers (or their organizations) and one or more workers' organizations (that is, trade unions).**

These representative parties come together to voice their respective demands, share information about what lies behind their positions, and through discussions and reciprocal trade-offs, seek to reach consensus. Ideally, these negotiations conclude with the signing of a collective agreement that regulates working conditions and terms of employment.

Collective bargaining is at once an enabling right, a voluntary negotiation process between autonomous representative parties, acting in good faith, and – if consensus is reached – a substantive regulatory outcome in the form of a collective agreement.

**Collective bargaining: At the heart of social dialogue.** Collective bargaining involves voluntary negotiations, conducted in good faith. Like other forms of social dialogue, for example workplace consultation and cooperation, it involves the exchange of information. At the same time, it is underpinned by two fundamental principles and rights at work: freedom of association and the effective recognition of the right to collective bargaining. As enabling rights, these freedoms provide the democratic foundations of labour markets and pave the way for the inclusive and effective governance of work. While the negotiation process may at times be characterized by significant contestation, over time, the repeated formulation of compromises by the bargaining parties can gradually contribute to trust, stability and labour peace.

Collective bargaining offers a unique mechanism for regulating the conditions of work and terms of employment – one enacted by the parties themselves. Representative actors in the world of work jointly create new standards or implement, tailor and enhance minimum statutory standards. The fact that collective bargaining involves

autonomous and representative parties fosters trust in the legitimacy of the outcome. Collective agreements are based on a concurrence and the shaping of substantive outcomes through the reciprocal exchange that takes into account the interests of *both* parties.

## Collective bargaining: Contributing to the inclusive and effective governance of work

As a form of co-regulation, **collective bargaining can make an important contribution to the inclusive and effective governance of work**, with positive effects on stability, equality, compliance and the resilience of enterprises and labour markets.

- ▶ **Collective bargaining provides a model for the governance of work that is responsive**, involving the devolution of rule-making and the encouragement of co-regulation. It enables the parties to tailor rules to their particular circumstances and adapt those rules when the circumstances change. This report provides evidence of the responsiveness of collective bargaining as a regulatory tool during the COVID-19 crisis.
- ▶ **Collective agreements can facilitate inclusive labour protection**, both with regard to their coverage of enterprises and workers, and with regard to the manner in which they address working conditions and terms of employment. This can have positive effects on equality, including in relation to wage distribution. This report highlights the importance of inclusive labour protection in ensuring, for example, that workers in temporary employment were provided with the same personal protective equipment (PPE) and access to healthcare benefits as those in permanent employment.
- ▶ **Effective collective bargaining institutions are part of an enabling environment for sustainable enterprises**, promoting trust, cooperation and stability – the basis for sound industrial relations. Depending on the country context, such institutions can facilitate the pooled financing of social protection (including healthcare), reduce labour turnover or help to retain a skilled and experienced workforce. This report looks, in particular, at the way in which collective bargaining enables the retention of experienced workers during periods of inactivity, allowing enterprises to jumpstart economic activity once the situation improves.
- ▶ **Collective agreements can reinforce compliance with statutory or negotiated standards**,

relieving labour administration systems of some of the regulatory resources involved in monitoring and enforcing labour standards. The report provides evidence of the positive relationship between collective agreements and compliance with OSH standards at the enterprise level.

- ▶ **Collective bargaining can help to forge resilience** in the short term, facilitating the trade-offs required to ensure business continuity and save jobs and earnings, while transforming work practices in the long run. These features have been particularly crucial in the context of the COVID-19 crisis.

As a long-standing and fundamental institution of work, collective bargaining has played an important role in many countries in securing decent work, guaranteeing equality of opportunity and treatment, reducing wage inequality and stabilizing labour relations.

## Collective bargaining: A global picture

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### Regulatory coverage by collective agreements varies considerably across countries, regions and levels of development

**Over one third of employees in 98 countries have their pay and working conditions regulated by one or more collective agreements (weighted average).** There is considerable variation in this collective bargaining coverage rate across individual countries, ranging from over 75 per cent in many European countries and Uruguay to below 25 per cent in around half of the countries for which data are available. There is also significant dispersion by region and level of economic development.

This variation can be attributed to key industrial relations factors, including, inter alia, the organizational features of trade unions and employers' organizations; the legal coverage of collective bargaining rights, such as the question of whether public servants have the right to collective bargaining; the institutional setting for collective bargaining (that is, whether bargaining is predominantly carried out on a multi-employer or a single-employer basis); and the manner in which collective agreements are applied.

**The report finds that where collective bargaining takes place on a single-employer basis**

**at the enterprise level, an average of 15.8 per cent of employees are covered by collective agreements. Where it takes place in multi-employer settings, there is greater opportunity to shape inclusive regulatory coverage, with an average coverage rate of 71.7 per cent.**

A related matter is the way in which collective agreements are applied, particularly in countries with high rates of collective bargaining coverage. In 10 out of the 14 countries in which the collective bargaining coverage rate is above 75 per cent, the regulatory coverage of collective agreements is shored up by measures that apply collective agreements either to all workers in an enterprise or bargaining unit, irrespective of whether they belong to the signatory trade union (*erga omnes*); and/or to all enterprises in a sector, irrespective of whether they belong to the signatory employers' organization (the extension of collective agreements).

### Shaping the legal coverage of collective bargaining rights

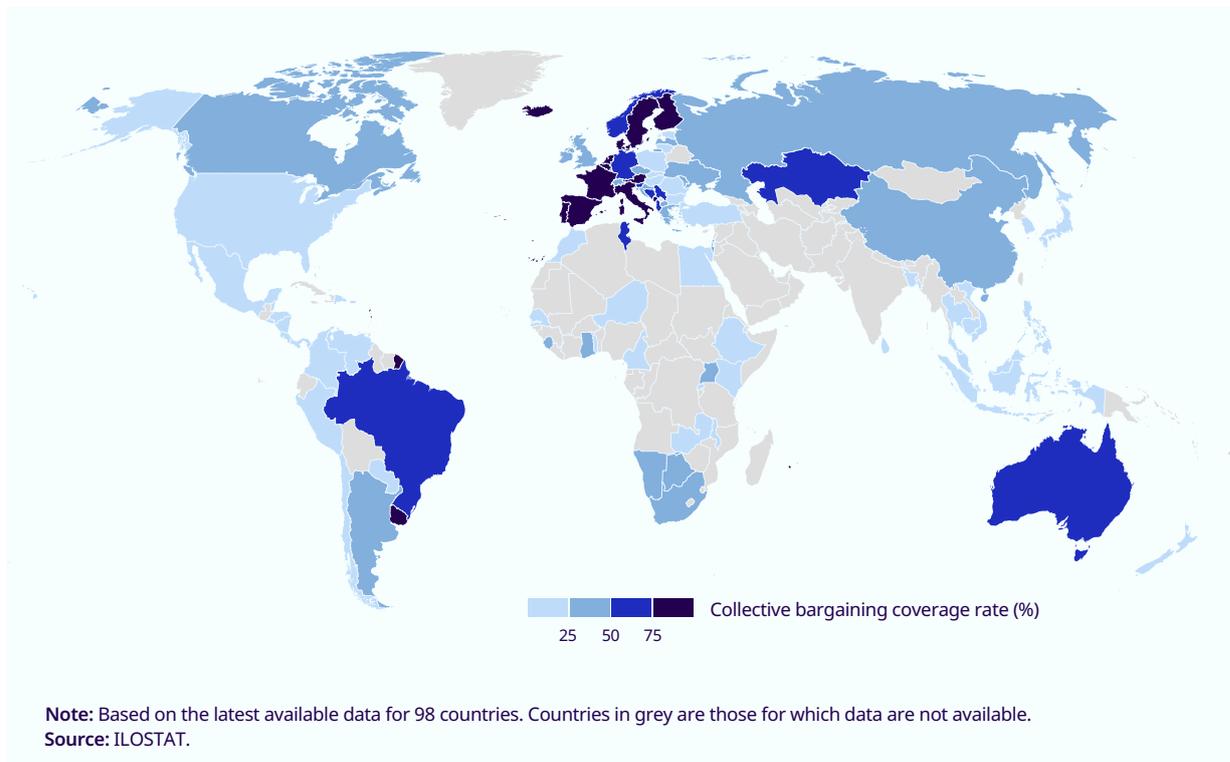
The effective recognition of the right to collective bargaining is grounded in the ILO Constitution. As emphasized in the ILO Declaration on Fundamental Principles and Rights at Work (1998), all

ILO Member States, even if they have not ratified the fundamental international labour Conventions,<sup>1</sup> have the obligation to respect, promote and realize in good faith the effective recognition of the right to collective bargaining. Recognizing the foundational role played by the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), in providing a framework for the effective recognition of the right to collective bargaining by Member States, four additional countries have ratified this Convention in the last five years: Canada (2017), Mexico (2018), Viet Nam (2019) and the Republic of Korea (2021).

When it comes to shaping the legal coverage of collective bargaining, the effective recognition of the right to collective bargaining and promotion of the full development of machinery for voluntary negotiation are essential. The recognition of the right to collective bargaining is general in scope and covers all workers in the public and private sectors, the only exceptions being the armed forces, the police, and public servants engaged in the administration of the State. A number of important developments have taken place in this regard.

- ▶ First, measures to afford workers the right to collective bargaining in the public sector have been adopted in multiple countries.

▶ **Figure ES.1 Collective bargaining coverage around the world (percentage)**



<sup>1</sup> The eight fundamental ILO Conventions are the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); the Forced Labour Convention, 1930 (No. 29) (and its 2014 Protocol); the Abolition of Forced Labour Convention, 1957 (No. 105); the Minimum Age Convention, 1973 (No. 138); the Worst Forms of Child Labour Convention, 1999 (No. 182); the Equal Remuneration Convention, 1951 (No. 100); and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

- ▶ Second, legislative and institutional actions have been taken to promote machinery for voluntary negotiation in sectors, occupations and among groups of workers where effectively exercising the right to collective bargaining is a challenge. These groups include domestic workers, migrant workers and workers in export processing zones.
- ▶ Third, in line with the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), various strategies have been adopted by trade unions to organize and formalize the contracts of workers in the informal economy and negotiate collective agreements with employers that regulate their terms of employment and conditions of work.
- ▶ Finally, in view of the rapid growth in diverse forms of work arrangements – including temporary, part-time and on-call work, multi-party employment relationships, dependent self-employment and, most recently, platform work performed under different work and employment relationships – several countries have taken steps to ensure the effective recognition of the right to collective bargaining for all workers.<sup>2</sup> These have included, on the one hand, clarifying the employment status of workers and ensuring that workers in diverse forms of work arrangements enjoy the right to bargain collectively. On the other hand, there have been legislative and other initiatives to address the constraints on collective bargaining rights for self-employed workers posed by competition policy; and, where appropriate, to promote the development of specific collective bargaining mechanisms that are relevant to self-employed workers.

### Shaping the regulatory coverage and responsiveness of collective agreements

A collective agreement – as an outcome of a voluntary negotiation process conducted in good faith – establishes joint rules in respect of working conditions, terms of employment and employment relations. In so doing, it can contribute to the inclusive and effective governance of work. Drawing on the analysis of legal and regulatory frameworks in 125 countries, this report finds

that **a number of procedural measures exist to facilitate the adaptability and inclusiveness of collective agreements**. These measures can provide regulatory certainty, allow for the tailoring of standards (such as working-time standards) and facilitate adaptability in the face of unexpected changes in the environment.

**Ordering various sources of regulation through the favourability principle.** With regard to the hierarchy between national laws and collective agreements, most countries apply the principle of favourability<sup>3</sup> in relation to the law (91 countries). In countries where bargaining takes place at more than one level, the favourability principle provides the procedural means to order standards in agreements concluded at the various levels concerned, either by law (41 countries) or through collective agreements (8 countries). In cases where derogations from the law are provided for by legislation, the legislation explicitly stipulates the conditions under which this is possible, and/or the issues that can be subject to derogations. Some systems permit lower-level collective agreements to deviate from higher-level agreements through various adaptability clauses, such as derogation clauses (12 countries) or hardship/opt-out clauses (15 countries). Adaptability clauses should be applied in accordance with the principles set out in international labour standards.

**Inclusive application of an agreement concluded by sufficiently representative parties to all workers or enterprises or workers in a bargaining unit or sector.** This can help to create a level playing field, that is, establish a framework for fair competition for enterprises. It can also facilitate the inclusion of migrant workers, temporary workers and other vulnerable categories of workers, affording inclusive labour protection with potentially equity-enhancing effects. Out of the 125 countries for which data are available, 80 provide for the *erga omnes* application of collective agreements to all workers in an enterprise and/or sector, irrespective of whether they are members of the signatory trade union, and 71 provide for the extension of collective agreements to all enterprises that fall under the scope of the agreement, under certain conditions. These conditions ensure that such extension is a policy decision by the public authority, and that the voices of non-parties are heard before the decision is taken.

2 The ILO Centenary Declaration for the Future of Work (2019) reaffirms “the continued relevance of the employment relationship as a means of providing certainty and legal protection to workers” and emphasizes at the same time that “[a]ll workers should enjoy adequate protection in accordance with the Decent Work Agenda, taking into account: (i) respect for their fundamental rights [...]” (Part III(B)).

3 According to the principle of favourability, standards established at higher levels of the hierarchy of labour law sources or collective agreements cannot be affected by collective agreements set at lower levels. When the lower source contains standards that are more favourable to workers, that source should have priority over the higher one.

**Duration of collective agreements and the way in which regulatory certainty is ensured after an agreement has expired (“ultra-activity”).** This aspect is important for enterprises projecting labour costs and for workers looking at their household budget to see whether they can pay their bills in the coming year. Out of 125 countries studied, 71 regulate ultra-activity. Most provide for the continued validity of some or all provisions until a new agreement has been concluded. Some extend the validity of an existing collective agreement for the same period that it was initially applicable, for an agreed duration, or for some other length of time, while others convert agreements with a definite duration into indefinite ones.

## The scope of collective agreements

Much of the literature in recent years has focused on the impact of different institutional settings on labour markets, particularly in high-income countries. Less is known about the scope of collective agreements. How do collective agreements regulate wages and other working conditions, and how does this process differ across countries and institutional settings? How do collective agreements address contemporary labour market challenges related to rising inequality in many parts of the world, skills development, the inclusion of young people and women in labour markets, and technological and environmental transitions? How do the parties use collective bargaining to make the most of the opportunities available to them in the future? This report sheds light on all of the above questions. The ILO studied practices in 21 countries and undertook textual analysis of over 500 collective agreements and secondary sources, selecting countries from different regions and at different levels of economic development. Nine recurrent themes were examined: wages; working time; OSH; social protection; terms of employment; training; work and labour market transitions; equality, diversity and inclusion; and labour relations. Provisions regulating wages were included in 95 per cent of the collective agreements reviewed, followed by working time (84 per cent), sound labour relations (78 per cent), sick pay and health benefits (70 per cent), OSH (68 per cent) and skills (65 per cent). The contribution of provisions on sick pay, healthcare, and the joint oversight of OSH has proved invaluable during the COVID-19 health crisis.

**Collective agreements can make a significant contribution to the inclusive and effective governance of work.** Apart from evidence on how collective agreements improve working conditions and establish frameworks for skills development, the unique data set assembled for this report provides evidence on their regulatory effects:

- ▶ Collective agreements can advance equality by reducing earnings inequality; promoting gender equality and the inclusion of women, young people, migrant workers and other vulnerable categories of workers; and expanding the opportunities for decent work offered by these agreements.
- ▶ Collective agreements can facilitate the tailoring of regulatory solutions to specific industry, enterprise and worker needs. This includes “regulated flexibility” in relation to pay for performance and working time.
- ▶ Provisions in collective agreements, particularly in settings where multi-employer bargaining predominates, can complement social protection systems, for example with regard to healthcare, pensions or unemployment benefits.
- ▶ Collective agreements can reinforce statutory provisions on critical issues such as OSH, which can be important for achieving compliance.
- ▶ Collective agreements can strengthen compliance, enabling labour administration bodies to devote their scarce compliance resources to much-needed sectors.
- ▶ Collective agreements are testing new approaches to the transitions that lie ahead – whether demographic, environmental or technological. The report highlights the experimentation taking place with regard to platform workers.

## Representative organizations of employers and workers

The roles played by employer and business membership organizations (EBMOs) and trade unions in collective bargaining comprise the shaping of the regulatory environment and policies, coordination of bargaining processes, the provision of relevant services for their members, and the negotiation of collective agreements. They are also central actors in the international normative framework that

gives effect to the fundamental principles and rights at work, including freedom of association and the effective recognition of the right to collective bargaining. Given their importance in the governance of work, their representativeness is essential to the effectiveness of organized interest representation in collective bargaining and to the legitimacy of the outcomes. Survey-based evidence shows that their institutional resources and responsiveness as interest-based organizations have enabled them to play a critical representative function in policy debates about the transformations currently under way in the world of work.

**Membership in EBMOs has remained relatively stable in recent years, based on 25 countries for which data are available.** This ranges from 15.1 per cent of enterprises in the Republic of Korea to 100 per cent in Austria. A survey of peak interprofessional EBMOs shows that just under half (46 per cent) have been involved directly in collective bargaining at the interprofessional level in the past five years. Experts from EBMOs have also been directly involved in negotiations at the sectoral level (21 per cent of respondents) and at the enterprise level (also 21 per cent of respondents), showing the importance these organizations have in some countries and regions in coordinating wage bargaining. Research findings have repeatedly pointed to the impact of bargaining coordination on labour market efficiency, and to the contribution of EBMOs in this regard. The results of the survey also indicate that, in addition to their direct role in coordinating collective bargaining, EBMOs also play an indirect role by offering services that support and promote the interests of their members in collective bargaining, including through the provision of information on wage and productivity developments (76 per cent of respondents); engaging in policy and regulatory debates on collective bargaining (69 per cent); providing legal advice on regulations and procedures (57 per cent); and organizing training on topics such as negotiation skills (54 per cent), among other services. Over half of respondents were of the view that issues related to collective bargaining would become more important in the future, while 41 per cent thought their importance would remain the same. As for the barriers and difficulties that EBMOs may face in collective bargaining, most of those identified by respondents related to the process itself and to the machinery established for bargaining. This suggests a need to focus on the revitalization of institutions and processes so as to promote the full development of collective bargaining.

**Evidence on trade unions shows that they continue to be the largest voluntary membership**

**organizations, representing more than 251 million workers in the private and public sectors worldwide.** This includes a small but rising number of own-account workers. Indeed, union membership has become more diverse in recent years. Over the past ten years, global trade union membership has increased by 3.6 per cent. This is attributed entirely to the increase among self-employed and own-account workers, including waste pickers, translators, journalists, actors, musicians, interpreters and other professions. Trade union membership of wage and salary members has stagnated or not kept up with the rise in employment, resulting in a widely reported continuing decline in trade union density (that is, trade union membership as a proportion of employees). Trade union density figures vary considerably across countries and regions, ranging from less than 1 per cent in Oman to 91 per cent in Iceland. For the first time, the total female union density rate is higher than the male density rate. There is variation across countries, with higher female density rates in 40 of the 86 countries with available data, equal male/female density rates in 6 countries and lower female density rates in the 40 remaining countries. Trade union revitalization may be observed everywhere, as reflected in recruitment campaigns that focus on organizing workers in temporary employment, migrant workers, platform workers, workers in the informal economy and young workers. Respect for freedom of association and the right to organize is a prerequisite for inclusive trade unions. By negotiating fair wages and decent working conditions, trade unions have contributed to lower levels of earnings inequality across countries and over time. But their role is by no means limited to collective bargaining. In their representative, leadership and advocacy functions, they have managed, together with EBMOs and governments, to rise to the unprecedented challenges associated with the COVID-19 pandemic in 2020 and 2021.

## Collective bargaining and the COVID-19 crisis: Forging resilience

The COVID-19 pandemic and the public health measures adopted in response have had dramatic effects on the world of work, on business continuity and, depending on the sector and activity, on workers' health and income security. Millions have found themselves working on the front lines of the battle against the pandemic,

directly exposed to the virus and the associated health risks. Enterprises have suffered significant income losses and faced rising levels of debt, which have threatened business continuity. Many workers switched to teleworking, while others were in occupations that did not allow them to perform their work remotely. Millions of workers had their work suspended or lost their employment. While all enterprises and workers have been affected, they have not been affected equally. The result has been deepening inequality within and across countries. The disproportionate effects of the crisis on female-dominated sectors, together with the increased burden of unpaid care work, threaten to reverse recent progress towards gender equality.

As successive waves of infection frustrated hopes of a rapid turnaround in 2020 and 2021, collective bargaining parties came to the negotiating table – or connected to online rooms – facing a highly uncertain economic and social outlook.

## Negotiating throughout the pandemic

**The extent to which industrial relations actors have used collective bargaining to respond to the pandemic followed pre-existing institutional trajectories.** In countries where the State plays an important role in labour markets, this role has become even more pronounced during the pandemic, reducing the space for collective bargaining. Industrial relations systems, which before the pandemic had delegated certain social policy issues to employers, employers' organizations and trade unions, have tended to rely on these institutions as part of the response to the COVID-19 crisis, in particular by engaging peak-level actors in tripartite and bipartite social dialogue, and promoting collective bargaining. In these instances, collective bargaining has been used proactively and has proved responsive to both the health emergency and the deteriorating economic situation. The adaptation of processes and procedures, despite the constraints imposed by the pandemic, has enabled the parties to tackle the effects of the crisis. As a responsive form of regulation, these adjustments have given procedural certainty to employers and workers in the face of a highly uncertain outlook. They included the postponement of negotiations to renew agreements, a switch to online negotiations, the modification of procedures for the ratification of agreements, the negotiation of "roll-over", "standstill", "bridging" and other agreements, and the use of temporary conditional derogation and hardship clauses.

**Survey evidence shows that the perspective of EBMOs and trade unions on the role of collective bargaining in 2020–21 was positive on the whole, though some EBMOs were more measured in their assessment.** Over half of the EBMOs surveyed agreed that the crisis had given new impetus to collective bargaining or that it had done so "to some extent". Similarly, over half of EBMO respondents agreed that collective agreements had been flexible enough to accommodate the effects of the crisis (including through their renegotiation or the postponement of their implementation), or that this was true "to some extent". In a survey of over 200 trade unions, more than half reported an increase in informal negotiations (that is, outside formal procedures), which had nevertheless resulted in the conclusion of collective agreements. Some trade unions reported "business as usual", with negotiations simply shifting online, whereas others reported the use of "rollover" agreements and other temporary arrangements to deal with the effects of the pandemic on collective bargaining. Experiences with online negotiations were mixed. Some trade unions reported more focused and efficient negotiations, while others referred to disruptions to some of the more intangible features of negotiations, such as the ability to read the body language of the other party. **Both trade unions and EBMOs reported a change in the topics under negotiation.** Health and safety, sick leave and health benefits, working-time flexibility and other working-time arrangements to balance work and family, and employment security moved to the top of the bargaining agenda, possibly dislodging other topics such as gender equality (with the exception of balancing work and family). EBMOs also noted the prevalence of telework on the bargaining agenda in some countries.

## Protecting front-line workers and sustaining key services

With the adoption of public health measures throughout the pandemic, millions of workers and employers in the public and private sectors were called upon to ensure the continuity of services deemed critical to ensuring the health, safety and security of the population. Many worked in occupations where social contacts and direct exposure to COVID-19 placed them at a high risk of contracting the virus, including healthcare and social care workers, cashiers and other workers in food retail, public transport workers, janitors and cleaners. As the risks mounted and work

► Figure ES.2 Changing priorities on the collective bargaining agenda (2020–21)



intensified, disruptions and labour protests – over issues such as dissatisfaction with wages, insufficient PPE, staff shortages and related work intensity – threatened the continuity of services in many parts of the world.

**Evidence for 2020 and 2021 shows that bargaining parties across different countries reached agreements affording protection to front-line workers**, ensuring an adequate supply of PPE and the installation of physical barriers (for example, in public transport and food retail), sufficient testing, access to vaccines, and increased paid sick leave or paid leave during quarantine periods, among other measures. Agreements were also reached with regard to the contractual status of workers considered critical yet who had until then been in temporary employment without adequate protection (such as access to healthcare insurance and paid sick leave).

**Collective agreements also addressed the need to secure the continuity of services in healthcare and social care** and to assign staff to new roles such as testing and tracing. This included agreement on changes to work organization and working time, and the redeployment of staff from healthcare to social care institutions. The capacity for coordinated bargaining contributed to resilience, allowing a systemic response to the increased demands on healthcare, such as temporarily extending the opening hours of kindergartens.

**The evidence of the role of collective bargaining in the revaluing of the occupations of front-line workers is less conclusive.** Case studies, country studies and an analysis of collective agreements for front-line workers show that, in addition to government awards of special COVID-19 bonuses in recognition of such workers' services and the risks taken, bargaining parties in some countries reached agreements on structural increases in the salaries of front-line workers. This reflects a revaluing of the work of some previously undervalued occupations in healthcare, social care and retail, where, significantly, women make up a large proportion of the workforce. On the other hand, pressure on public finances in other countries resulted in agreements to freeze wages. In some, agreements on wage adjustments were only reached after disputes that disrupted services.

### Ensuring safe and healthy workplaces

The public health measures adopted to contain the pandemic required the adaptation of work practices to prevent workplace contagion. The protection of workers' safety and health became a prerequisite for sustaining work, whether performed on site or remotely. As a result, OSH was at the top of the bargaining agenda as enterprises and trade unions came together to implement

public health measures and tailor specific OSH measures to a given sector or enterprise.

**OSH committees established in collective agreements played a central role in implementing, tailoring and monitoring prevention and control measures at the workplace.** In some instances, collective agreements expanded the mandate of existing OSH committees within pre-existing OSH management systems; in others, bargaining parties set up dedicated crisis committees to oversee the implementation of COVID-19-related safety and health measures. Data generated by the ILO's Better Work programme show that garment-producing enterprises covered by collective agreements had higher levels of compliance with OSH standards in 2020–21 than those not covered by collective agreements.

**COVID-19 measures in collective agreements followed a hierarchy of controls for minimizing the risk of contagion.** Bargaining parties frequently agreed on temporary changes to work organization, where possible substituting on-site work with telework. Many agreements covered the procurement, provision and correct use of PPE to protect workers against COVID-19 exposure. On the basis of joint risk assessments, bargaining parties also reached agreement on a range of engineering controls. These included adequate ventilation and the installation of barriers. Other administrative and organizational measures were agreed for the purposes of infection prevention and control, including temperature checks, protocols for quarantine, vaccination programmes and incentives, and the negotiation of additional paid sick leave. The healthcare benefits, that were provided for in 70 per cent of the agreements reviewed, ensured that adequate treatment was available in cases of infection.

### Preserving employment, protecting earnings, safeguarding business continuity

During the successive COVID-19 waves and restrictions, questions of business liquidity and employment and income security remained a pressing concern. The need to care for children and sick family members placed new constraints on working time. Issues of business continuity, employment security and working-time flexibility dominated the bargaining agenda throughout 2020 and 2021 in a context that was – and in many countries remains – highly uncertain.

**Collective bargaining played an important role in many countries in the implementation of**

**government-sponsored employment retention measures including short-time work, partial unemployment, wage subsidies and furlough schemes.** Institutional learning from the 2008 financial crisis and tripartite social dialogue facilitated the rapid expansion and implementation of these measures, as well as their implementation through collective bargaining. There is evidence that some collective agreements and collective bargaining institutions improved on or “topped-up” statutory replacement rates. Some ensured higher supplements for low-wage workers and provided for social security (including health insurance) to be maintained during periods of temporary lay-offs.

**Collective bargaining was also used throughout 2020 and 2021 to negotiate short-order flexibility in wage-setting, working time and work allocation in exchange for employment guarantees.** The negotiation of short-order flexibility was a crisis response, rapidly implemented and time-bound. Amid great uncertainty, these agreements provided a degree of both substantive and procedural certainty, reducing tensions and smoothing, at least in part, the transit through the economic downturn. The solutions negotiated addressed employers' concerns over business continuity, while providing employment security to workers. They also ensured that enterprises had the capacity to retain skilled and experienced staff and were able to rapidly resume economic activity as soon as conditions permitted.

Both strategies – the negotiated implementation of government-sponsored employment retention and short-order flexibility – sought to pave the way for a swift recovery. Collective bargaining also resulted in measures aimed at mitigating the potential effects of the COVID-19 crisis on inequality, such as solidarity agreements and measures for balancing work and additional care responsibilities, thereby cushioning the disproportionate impact of the crisis on women.

### Shaping future telework and hybrid work practices

Lockdowns and work-from-home recommendations throughout 2020 and 2021 accelerated the digitalization of work. However, the large-scale resort to telework was asymmetrical and closely associated with a country's level of economic development. The massive pandemic-induced experimentation with telework has transformed work practices in some important instances, with a number of large enterprises announcing hybrid work models that combine telework with on-site work.

**The COVID-19-related inclusion of teleworking on the bargaining agenda enabled considerable institutional experimentation.** There is evidence that these experimental arrangements are evolving into more durable frameworks, potentially ensuring decent and inclusive telework and hybrid working practices that meet the interests of both employers and workers. The bargaining agenda and subsequent agreements address issues typically falling within the scope of collective agreements, but with specifications tailored to the new working methods. For example, agreements may focus on changes in work organization and the need for adequate training in hybrid work and related technologies. They may provide for the reimbursement of costs related to telework. Some address issues of cybersecurity and data protection. A number of collective agreements “re-regulate” working time, increasing workers’ autonomy and control over their working-time schedules, while fixing hours and days of the week during which they must be reachable by their employer. Most agreements affirm rest periods through a right to disconnect. Collective agreements also address OSH, equality of opportunity and inclusion, and labour relations, among other subjects.

## Negotiating for an inclusive, sustainable and resilient recovery

Collective bargaining provides the tools with which to achieve a human-centred recovery. A number of priorities need to be addressed if the full potential of collective bargaining to contribute to an inclusive, sustainable and resilient recovery is to be realized:

► **Revitalizing employers’ and workers’ organizations:** A human-centred recovery implies that employers and workers have a voice in the decisions affecting them. The representative function of EBMOs and trade unions – both in terms of their membership strength and their capacity to integrate diverse interests – is the bedrock of effective social dialogue, including collective bargaining. During the COVID-19 pandemic, in countries where engagement with and between representatives of employers’ and workers’ organizations has been part of

the response, it has also proved to be part of the solution. It is essential to harness the full potential of EBMOs and trade unions to shape the future trajectory of recovery. Looking forward, EBMOs need to further strengthen their membership recruitment and retention strategies, in order to attract a diverse membership, including in under-represented sectors and types of enterprises. Engagement in evidence-based policy dialogue will require expertise on major issues affecting labour markets, such as digital transformations, skills mismatches and the high levels of informality in certain parts of the world. Trade unions for their part need to strengthen their capacity to analyse and understand the transformations taking place in the world of work; they must also be able to influence economic, social and sustainable development policies, strengthen their own institutional and organizational processes, and engage in innovative strategies. Trade unions need to continue to invest in relevant capacity development initiatives, including education and training programmes, to ensure that the lessons learned from the pandemic are firmly embedded in the processes of social dialogue, including collective bargaining.

► **Realizing the effective recognition of the right to collective bargaining for all workers:** The ILO supervisory bodies have repeatedly affirmed the universal nature of the principles and rights enshrined in the fundamental international labour Conventions on freedom of association (No. 87) and collective bargaining (No. 98). In view of the transformative changes that are under way in the world of work, it is necessary to strengthen the institutions of work to ensure adequate protection for all workers, including the effective recognition of the right to collective bargaining.<sup>4</sup> The promotion and realization of freedom of association and the effective recognition of the right to collective bargaining lay the foundations upon which employers, employers’ organizations and trade unions can contribute to the effective and inclusive governance of work through collective bargaining and other forms of social dialogue. However, this is only possible to the extent afforded under the broader regulatory framework, which encourages and promotes the full development of voluntary negotiations conducted in good faith. Given the proliferation of diverse forms of work arrangements in recent years, there is a need to review these regulatory frameworks at the national level to ensure

4 The ILO Centenary Declaration for the Future of Work (2019) calls upon all Members of the ILO to further develop its human-centred approach by, inter alia, “[s]trengthening the institutions of work to ensure adequate protection of all workers”, and emphasizes that “[a]ll workers should enjoy adequate protection in accordance with the Decent Work Agenda, taking into account: (i) respect for their fundamental rights; [...]” (Part III(B)).

legal clarity and certainty so that those in work relations in need of protection are afforded the necessary protections provided for by labour laws and other laws and regulations. This would help to ensure that all workers are guaranteed the effective recognition of the right to bargain collectively, as a fundamental principle and right at work, and as a human right.

► **Promoting collective bargaining for an inclusive, sustainable and resilient recovery:**

This report points to some of the opportunities that lie ahead as parties come to the bargaining table to agree on arrangements to address inequality and exclusion, ensure economic security, facilitate a just transition, achieve working-time flexibility and improve work-life balance, pursue a transformative agenda for gender equality and promote sustainable enterprises. Collective bargaining can provide a vehicle to ensure that workers are able to negotiate a fair share of productivity gains, which in turn enhances their commitment to the productive sustainability of an enterprise. Enterprises may in turn make commitments to invest in skills knowing that they can retain a committed workforce. However, collective bargaining needs to take place within an enabling regulatory framework established by the State, or, in some countries, by the parties themselves. This framework promotes the full development of voluntary negotiations by autonomous parties, acting in good faith, with the objective of reaching a collective agreement that can contribute to the governance of work. The regulatory resources provided for by collective bargaining furthermore reduce the need for government intervention in the labour market. Collective agreements can provide enterprises and workers with the capacity for “regulated flexibility” in relation to working time. As a regulatory technique, collective bargaining may also be effective in securing compliance with both jointly agreed rules and statutory ones. Enabling and encouraging the parties to negotiate and co-regulate conditions of work can also catalyse processes of institutional learning, and in some instances, provide the means to incubate innovative regulatory solutions.

► **Investing in peak-level bipartite and tripartite social dialogue:** In examining how collective bargaining has helped to forge resilience, this report has also highlighted the role played by the tripartite actors – governments, employers’

organizations and trade unions – in creating the policy and institutional environment necessary for the parties to freely craft negotiated solutions during the COVID-19 pandemic. Effective and inclusive social dialogue requires continued engagement on social and economic policy with and between peak-level industrial relations actors both in good times and in times of crisis. Investment in peak-level social dialogue, both bipartite and tripartite, is thus essential if countries are to have the institutional means to ensure a human-centred recovery.

► **Reinforcing social dialogue for the achievement of the Sustainable Development Goals:**

Social dialogue, including collective bargaining, can contribute to the implementation of the 2030 Agenda for Sustainable Development. While social dialogue is clearly vital for attaining Goal 8 (on decent work and economic growth), through its unique contribution to the inclusive and effective governance of work, it can also support other Goals. The role of employers’ and workers’ organizations is critical in this regard. They provide agency and give a voice to groups directly affected by policies. However, to make this contribution, the fullest realization of the fundamental principles and rights at work – freedom of association and the effective recognition of the right to collective bargaining – is essential.

As countries begin to lift public health restrictions, there is a need to unlock the full potential of employers’ and workers’ organizations and to strengthen social dialogue and collective bargaining. A human-centred recovery implies that employers and workers have a voice in the decisions affecting them and are endowed with the dignity that such processes afford. Rather than impose an impediment to adjustment, the report shows that collective bargaining can adapt and be responsive to changing conditions, and in the face of uncertainty can provide the parties with a degree of procedural and substantive certainty. This can be an invaluable source of stability. It can also facilitate the transformation of work processes for an inclusive, sustainable and resilient recovery. As in the past, the institutional resilience provided by collective bargaining can feed into the resilience needed for the next crisis – whether related to climate change or social or economic events – thereby supporting the pursuit of decent work.



# 1 Introduction



► 17 August 2021. Workers casting their ballots to legitimize the collective agreement at General Motors Silao Plant in Guanajuato, Mexico. The ILO participated as an observer throughout the legitimization process.

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This is the first in a new series of flagship reports on social dialogue launched by the ILO.<sup>1</sup> Social dialogue includes all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social policy. It encompasses collective bargaining, peak-level (that is, bipartite and tripartite) social dialogue on socio-economic policy, and workplace consultation and cooperation. The aim of this new series is to present research findings that can assist governments and employers' and workers' organizations to strengthen social dialogue in all its forms, in line with international labour standards. It is thus appropriate for the new series to open with a report focusing on the form that lies at the heart of social dialogue, namely collective bargaining. Collective bargaining involves a process of voluntary negotiation, conducted in good faith. It is underpinned by two fundamental principles and rights at work: freedom of association and the effective recognition of the right to collective bargaining.<sup>2</sup> Together, these principles constitute the democratic foundations of labour markets and pave the way for the inclusive and effective governance of work.<sup>3</sup>

<sup>1</sup> The mandate for the report is given in the conclusions concerning the second recurrent discussion on social dialogue and tripartism, adopted by the International Labour Conference at its 107th Session in June 2018, which state: "6. The Office should carry out its research programme in accordance with the Organization's research strategy to: (a) Develop a yearly flagship report on the strategic objective of social dialogue and tripartism. To this aim, develop knowledge and evidence-based and rigorous research on the role and impact of: (i) Collective bargaining on inequality, wages and working conditions, a topic that should be covered in the report on a regular basis [...] (b) produce comparative information, statistics and analysis on industrial relations and help Members to gather improved information in this field;" (ILO 2018a). This mandate was reaffirmed by the Governing Body at its 335th Session in March 2019, when it adopted a decision on the revised plan of action on social dialogue and tripartism for the period 2019–23 to give effect to the aforementioned conclusions, in particular through the development of a new annual flagship report (ILO 2019a, para. 16).

<sup>2</sup> The *ILO Declaration on Fundamental Principles and Rights at Work*, adopted in 1998, identifies four core categories of principles: "(a) freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour; and (d) the elimination of discrimination in respect of employment and occupation" (ILO 1998, para. 2). The *Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)*, and the *Right to Organise and Collective Bargaining Convention, 1949 (No. 98)*, are fundamental international labour Conventions.

<sup>3</sup> In addition to Conventions Nos 87 and 98, it is necessary to mention in this context the *Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)*, one of the four priority "governance Conventions" by virtue of its importance for the functioning of the international labour standards system, and its significance for the governance of work (including promotion of the full development of collective bargaining).

Concerns have been growing in recent decades over rising inequality in earnings and widening gaps in labour market opportunities. These developments are mirrored by sluggish productivity growth on the one hand, and a declining labour income share on the other. The COVID-19 pandemic exacerbated various types of inequality and highlighted existing vulnerabilities in economies, labour markets and societies. Measures taken to contain the spread of the virus resulted in the loss of earnings for millions of enterprises and hundreds of millions of workers. Business continuity was jeopardized. A clear distinction emerged between those who were able to adapt their working patterns and shift to telework, and those whose work was suspended, with implications for their income security; the former were often better remunerated, the latter frequently among the low-paid. The pandemic had devastating effects on labour markets. The ILO estimates that global unemployment will reach the staggering figure of 207 million people in 2022, compared with 186 million in 2019 (ILO 2022).

**As a long-standing and fundamental institution of work, collective bargaining has played an important role in many countries in securing decent work, guaranteeing equality of opportunity and treatment, reducing wage inequality and stabilizing labour relations.** During economic crises, it has also helped to respond to the immediate needs of both employers and workers. These functions are no less important today. For example, from March 2020 onwards, in the face of an unprecedented crisis induced by the COVID-19 pandemic, many employers and their organizations and trade unions around the world sat down at negotiating tables, or connected to online meeting rooms, to negotiate terms that provided enterprises, sectors and countries with the resilience required to respond to the crisis. As shown in Chapter 5, collective bargaining is being used as a tool across different contexts to tackle the manifold challenges posed by the COVID-19 pandemic with regard to protecting front-line workers and ensuring the continuity of key services; addressing the impact of the crisis on businesses, earnings and employment; and, in so doing, forging resilience and mitigating the potential effects on inequality. Collective bargaining is also being used to shape frameworks for decent post-pandemic telework, enabling employers and workers to seize the opportunities that lie ahead. Collective bargaining has only proved possible where regulatory frameworks ensure the effective recognition of that fundamental right and

where representative social partners were able to shape outcomes (see Chapter 2).

In June 2019, months before the onset of the pandemic, the ILO's tripartite constituents adopted the ILO Centenary Declaration for the Future of Work, which calls for the institutions of work to be strengthened so as to ensure adequate protection of all workers, taking into account respect for their fundamental rights (ILO 2019b). This is echoed in the Global Call to Action for a Human-Centred Recovery from the COVID-19 Crisis That Is Inclusive, Sustainable and Resilient adopted by the International Labour Conference in June 2021 (ILO 2021a). Although there are marked differences in how collective bargaining is conducted around the world, investing in this and related institutions of work – always on the basis of respect for, and the promotion of, freedom of association and the effective recognition of the right to collective bargaining – is essential for a human-centred recovery from the crisis.

# 1.1

## What is collective bargaining?

**Collective bargaining involves negotiations between one or more employers (or their organizations) and one or more workers' organizations.**<sup>4</sup> A dynamic process, collective bargaining brings these parties together so that they can voice their respective demands, share information and – through discussions and reciprocal compromises – reach agreement on issues such as wages, hours of work, the protection of workers' safety and health, training and collective labour relations. Ideally, collective bargaining concludes with a collective agreement that regulates working conditions and terms of employment.

<sup>4</sup> The terms "trade union" and "workers' organization" are used interchangeably throughout this report.

## The origins

Historically, collective bargaining emerged in Europe and North America as a key mechanism for workers to protect themselves from the adverse effects of labour market competition, which in the past had often pitted one worker against another in a “race to the bottom” (Webb and Webb 1896). By negotiating on a collective as opposed to individual basis, workers could agree on a “common rule” with employers that provided a “floor”, or minimum level, of working conditions in a particular factory, trade, industry or region (Webb and Webb 1902). Wages and working time could be standardized, output and employment stabilized, and some assurance provided in respect of the security of investments (Commons 1921, 63, 65). Employers could also be more confident that they would not be undercut by unfair competition – for example, through the use of child labour. In this way, **collective bargaining was to give effect to one of the founding principles of the ILO, namely that “labour is not a commodity”**.<sup>5</sup>

The democratic foundations of collective bargaining were also intrinsic to its evolution in other parts of the world. In emerging economies, the development of collective bargaining was often linked to the struggle for independence in some countries and the transition to democratic rule in others (Hayter and Lee 2018). For example, in Latin America, collective bargaining rights were widely recognized in labour laws of the 1930s.<sup>6</sup> In the second half of the twentieth century, following waves of democratization in the region, newly elected governments frequently restored collective rights that had been dismantled by authoritarian regimes (Cook 1998; 2006).

## The institutional setting for collective bargaining

Collective bargaining is characterized by a variety of practices, as elaborated in Chapters 2 and 3. These practices are shaped by legal and institutional traditions, including the historical development of employers’ and workers’ organizations. At the enterprise level, collective bargaining takes place between a single employer and

one or more trade unions. It can take place at higher levels, such as the sectoral and territorial level, between one or more trade unions or trade union federation(s) and one or more employers and their organizations; and at a national interprofessional level between peak-level organizations. It can also take place at a cross-border level, an example being the collective agreement concluded in respect of seafarers in an international bargaining forum set up for that purpose.<sup>7</sup> Depending on the institutional context, coordination between the different levels and across sectors may be facilitated by formal and/or informal mechanisms, such as centralized bargaining institutions, tripartite social dialogue or “pattern bargaining”, whereby a practice set by a particular sector or enterprise is followed. Whatever the institutional setting and practice, the capacity (skills) of the parties to negotiate and their willingness to do so in good faith are of critical importance, as is their freedom to decide on the scope of issues to be covered. Labour administration systems and tripartite social dialogue can also play an important role in promoting collective bargaining.

## The actors

Collective bargaining involves two parties whose roles are defined by the regulatory framework: employers and their organizations on the one hand (or in the case of the public sector, the State as the employer), and workers’ organizations on the other. The representativity of these organizations is essential for effective and organized representation of the parties’ interests and for the legitimacy of subsequent outcomes. As Chapter 4 shows, trade union membership has grown in numbers, and unions are now organizing and negotiating on behalf of an increasingly diverse membership. While membership in employers’ organizations has remained stable, their roles in collective bargaining have changed. Following the decentralization of collective bargaining in some regions, individual employers assumed a greater role in collective bargaining. The coordination, information-sharing and advisory role of peak-level employers’ organizations became more prominent in these instances.

<sup>5</sup> Declaration of Philadelphia, adopted by the International Labour Conference at its 26th Session in May 1944. The Declaration is included in the Annex to the ILO Constitution.

<sup>6</sup> Legislation on collective bargaining frequently drew inspiration from regulatory frameworks in other parts of the world. The objectives of such regulation were often similar. For example, in Mexico, the preparatory work leading to the adoption of the Federal Labour Act of 1931 recognized that through collective agreements the relations between employers and workers were balanced and regulated in a “conscious and meticulous manner, not imposed, but discussed and made inviolable by the parties” (De la Cueva 2014, 408).

<sup>7</sup> Collective agreement concluded between the International Transport Workers’ Federation and the Joint Negotiating Group (representing maritime employers) after negotiations during 2019–22. See also the website of the International Maritime Employers’ Council, <http://www.imec.org.uk/grants/ibf/>.

# 1.2

## Collective bargaining and the governance of work

Collective bargaining enables the representation of both employers' and workers' interests in the negotiation process and the integration of those interests in the substantive outcomes of that process. **As a form of governance, collective bargaining offers a unique mechanism for regulating the conditions of work and the terms of employment – one enacted by the parties themselves.** Collective bargaining is at once an enabling right, a voluntary negotiation process carried out by autonomous parties and a substantive regulatory outcome. These key elements allow collective bargaining to contribute to the inclusive and effective governance of work<sup>8</sup> (see figure 1.1). Together with labour law, collective bargaining serves as a procedural device whereby the working conditions of those in need of protection can be regulated (Langille 2011). However, collective bargaining can only fulfil this role to the extent provided for within a framework of rules and procedures, typically established by the State, or in some instances by peak-level actors.<sup>9</sup> Such a framework should promote the full development of free and voluntary collective bargaining, conducted in good faith (see Chapter 2).

### 1.2.1 Collective bargaining: An enabling right

The effective recognition of the right to collective bargaining is among the ILO's fundamental principles and rights at work. The ILO Declaration on Fundamental Principles and Rights at Work (1998) sets out the objective of these principles and rights in the Preamble:

**[...] [I]n seeking to maintain the link between social progress and economic growth, the guarantee of fundamental principles and rights at work is of particular significance in that it enables the persons concerned, to claim freely and on the basis of equality of opportunity, their fair share of the wealth which they have helped to generate, and to achieve fully their human potential. [...]**

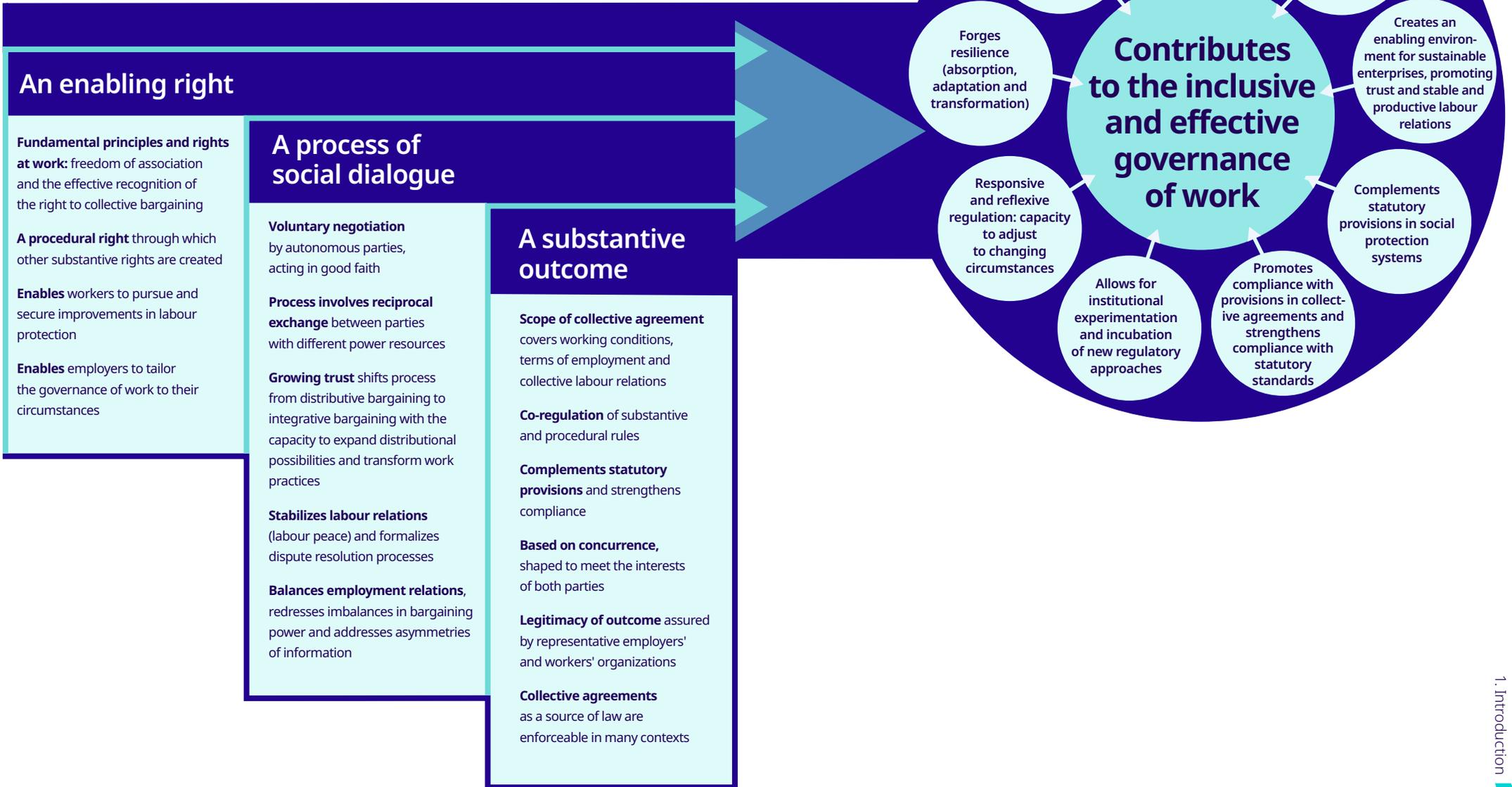
Freedom of association and the effective recognition of the right to collective bargaining are of particular significance in the pursuit of decent work.<sup>10</sup> As procedural rights, they shape the processes whereby substantive rights are subsequently created and their compliance achieved (Hepple 2003, 5). The State establishes certain safeguards for the exercise of such enabling rights. Collective negotiations, collective agreements and their implementation are the results of the process guaranteed by those measures (Maupain 2005, 448). The effective recognition of the right to collective bargaining empowers workers to pursue and secure improved labour protection and other valued outcomes (such as healthcare or an enhanced work–life balance). For employers, it provides a form of labour governance that can be tailored to their needs while fostering stability, trust and commitment (Grimshaw, Koukiadaki and Tavora 2017).

8 The governance of work includes policies, norms, laws, regulations, institutions, collective agreements, administrative practices (such as labour inspection), and tripartite and bipartite social dialogue outcomes, such as social pacts or joint protocols developed and established by public and private actors – that is, the State and/or employers and their organizations and workers' organizations. For further discussion of this area, see Hardy and Ariyawansa (2019).

9 With regard to the methods for implementing the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Committee of Experts on the Application of Conventions and Recommendations encourages the use of those methods "which have their origins in tripartism, social dialogue and full and frank consultations between the social partners" (ILO 2012, para. 169).

10 The [ILO Declaration on Social Justice for a Fair Globalization](#), adopted by the International Labour Conference in June 2008, emphasizes that "freedom of association and the effective recognition of the right to collective bargaining are particularly important to enable the attainment of the four strategic objectives [of the ILO, through which the Decent Work Agenda is expressed]" (ILO 2008, Part I.A(iv)).

► **Figure 1.1 Collective bargaining: Towards the inclusive and effective governance of work**



**As enabling rights, freedom of association and the effective recognition of the right to collective bargaining can be considered part of a human capabilities approach to social and economic development, the objectives of which were most recently enunciated at the international level by the United Nations Sustainable Development Goals (SDGs).** These enabling rights provide the agency and substantive freedoms with which to pursue many of the SDGs, including Goal 8, “Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all” (see Chapter 2), and Goal 16, “the promotion of peaceful and inclusive societies for sustainable development, the provision of access to justice for all, and building effective, accountable institutions at all levels” (see Chapter 6).<sup>11</sup>

## 1.2.2 Collective bargaining: A process of social dialogue

**Collective bargaining is a unique and distinct form of social dialogue by virtue of both the nature of the process and the intended outcome, namely a collective agreement. It involves voluntary negotiations between autonomous parties acting in good faith.** These negotiations are characterized by a process of reciprocal exchange, in which “both parties come to a consensus as to the terms and conditions being negotiated by compromise” (Corthésy and Harris-Roper 2014, 285). The very process of collective bargaining is a vital contribution to sound industrial relations (ILO 2006, para. 7), irrespective of whether the parties reach an agreement or not. It can restore dignity and enhance the value and meaning of work.

The process of collective bargaining can take various forms. In its simplest form, collective bargaining is often “distributive” – that is, each party seeks to maximize its share of the total value available. The outcome of distributive bargaining is inevitably one where the party that secures the largest slice of the pie, as it were, does so at the expense of the other party (in other words, a “win-lose” situation) (Walton and McKersie 1965). However, with the building of trust and maturing industrial relations, parties can instead engage in “integrative” bargaining, exploring all resources available to meet their respective interests. The

outcome is inevitably one which, to use the same metaphor, expands the size of the pie and the scope for potential trade-offs (a “win-win” situation). Integrative bargaining results in agreements that are uniquely tailored to the enterprise, industry or national circumstances. As the system of collective bargaining and industrial relations evolves, parties may engage in institutional experimentation and develop new approaches to address emerging issues, such as environmental and technological transitions and, most recently, the increasing adoption of hybrid work models (see Chapters 3 and 5).

While the negotiation process may at times be marked by significant contestation, the structuring and institutionalization of compromises made by the respective parties can gradually contribute to trust, stability and labour peace. Having arrived at solutions through a process of negotiation and joint problem-solving, the parties agree not to pursue conflictual and costly alternatives such as strikes and lockouts (Pohler 2018, 244; Webb and Webb 1902, 1). The State can play a key role in this regard by establishing laws, policies and resources – such as mediation and facilitation services – to promote free and voluntary collective bargaining.

As a process, collective bargaining facilitates the balancing of employment relations. With the exception of highly skilled workers or those whose skills are scarce, negotiations between individual workers and their employer are most often marked by imbalances, because of both unequal power resources and an asymmetry of information. Concerns have also been growing about the implications of monopsonistic labour markets (that is, those dominated by a few large “superstar firms”) for the labour income share and labour market efficiency more generally (Autor et al. 2020; OECD 2019a; Azar, Marinescu and Steinbaum 2019). Collective bargaining has the potential to address such imbalances and asymmetries. It can mitigate the efficiency losses that may arise as a result of incomplete contracting (as envisaged by efficiency bargaining models). Collective bargaining may also help to address the monopsonistic power that large enterprises often hold when it comes to wage-setting (Kaufman 2012). Workers’ structural and associational resources can counterbalance the economic strength of employers, and, in the case of the State as an employer, the political power exercised by the latter (Doellgast and Benassi 2020). As far as employers are concerned, addressing these imbalances and

<sup>11</sup> Cf. the concepts of human agency and the substantive freedom to pursue and achieve valued outcomes advanced by Sen (1999). See also Deneulin and Shahani (2009).

asymmetries can help to engender trust and commitment to high-performance work practices among their employees (Appelbaum et al. 2000; Stiglitz 2000). The associational resources of employers' organizations can also play an important role in the coordination of wage bargaining by aggregating the interests of enterprises of all sizes, leading to potentially positive effects on labour market efficiency.

### 1.2.3 Collective agreements: A substantive outcome

**The aim of collective bargaining is to arrive at a collective agreement. The substantive terms of such an agreement (that is, its scope) typically cover wages, working time and other conditions of work, terms of employment, and rules and procedures governing the relations between the parties** (see Chapter 3). Organizations may conclude collective agreements that cover only their own members, or, where the system and public policy allow, others in the same enterprise, industry or sector (see Chapter 2).

Collective agreements are a unique form of co-regulation whereby private actors jointly create new standards or implement, tailor and enhance minimum statutory standards through negotiations and agreement. The substantive outcome of collective bargaining is different from the outcomes of other forms of labour regulation or governance. The State regulates by promulgating rules; individual employment contracts are not necessarily negotiated. In contrast, collective agreements are based on concurrence, where rules are tailored to meet the interests of both parties. The fact that collective bargaining involves autonomous and representative parties strengthens the legitimacy of the outcome. Through collective bargaining, trade unions and employers' organizations "become sources of regulatory practice in respect of the rules that may be embodied in formal collective agreements to which they are a party" (Gahan and Brosnan 2006, 136). The regulatory solutions developed by the actors in industrial relations become enshrined in law as a source and a means of co-regulation.<sup>12</sup> As a source of law, collective agreements are also enforceable in most contexts.

### 1.2.4 Collective bargaining: Contribution to inclusive and effective governance of work

As what has been described as "legislation by accord" by Hamburger (1939, 194), collective bargaining is one of the primary means whereby the actors in industrial relations contribute to the governance of work. Kahn-Freund (1972, 55) outlined the process as follows: "Through being countervailing forces, management and organized labour are able to create by autonomous action a body of rules, and thus to relieve the law of one of its tasks." **Collective bargaining can provide an effective regulatory tool that is responsive to the evolving context, enhances the inclusiveness of labour protection, supports an enabling environment for sustainable enterprises, strengthens compliance and contributes to resilience.**

#### Responsive regulation

Although there are a variety of approaches to the governance of work, a State may choose to promote a model of labour governance that is *responsive* (Ayres and Braithwaite 1992) and *reflexive* (Teubner 1993). Building on Teubner (1993), Hayter and Visser (2018, 3) explain that "instead of imposing mandatory substantive legal standards in a top-down (command and control) manner accompanied by sanctions, reflexive regulation devolves rule-making and encourages co-regulation. It advances 'regulated autonomy' through norms of organisation, process and procedure." Statutory laws may not always be able to immediately respond and adapt to economic developments (Deakin and Wilkinson 2005). In contrast, **collective bargaining can be a highly effective form of regulation by enabling parties to tailor rules to the circumstances of their particular enterprise or industry and to adapt them further when those circumstances change.** Chapter 5 presents evidence of the responsiveness of collective bargaining as a regulatory tool. It also discusses situations in which collective bargaining is providing the institutional space within

<sup>12</sup> This was explicitly acknowledged by the ILO in the preparatory work that led to the adoption of the [Collective Bargaining Convention, 1981 \(No. 154\)](#). The ILO noted that collective bargaining "has an important standard-setting function in that, *together with the law*, it constitutes the *main source of regulations* governing wages, conditions of work and industrial relations" (emphasis added) (ILO 1980, 5).

which to develop and try out new regulatory approaches, such as hybrid working practices. Weak adherence to the rule of law, adversarial or underdeveloped industrial relations institutions, and unrepresentative parties can all hamper the ability of collective bargaining to function as a responsive and reflexive means of regulation.

## Inclusive labour protection

**Collective agreements can help to promote inclusive labour protection.**<sup>13</sup> For example, Chapter 5 illustrates how collective agreements concluded during the COVID-19 pandemic covered the provision of adequate personal protective equipment and healthcare benefits for workers on permanent contracts and also for agency workers and other workers on temporary contracts. As Chapter 2 makes clear, the extent to which collective agreements can fulfil such a role depends on how they are applied within the regulatory framework and on their substantive scope. States may have an interest in seeking the broadest possible regulatory coverage of the labour protection established by sufficiently representative parties. This allows labour administration bodies to then devote their scarce regulatory resources to other tasks. High levels of membership in employers' organizations and trade unions are clearly necessary for that to happen (Traxler 2004, 47).

Collective agreements can also promote inclusive labour protection by incorporating provisions that foster diversity and inclusion, address specific concerns (such as equal pay for work of equal value) and contribute to a transformative agenda for gender equality.<sup>14</sup> Furthermore, collective bargaining can address issues arising from changing demographics, specifically by facilitating the entry of young people into the labour market and protecting an ageing population. Providing inclusive labour protection – both through the inclusive application of collective agreements and the substantive terms of such agreements – can have significant positive effects on equality, including in relation to wage distribution. These conclusions

are supported by recent research findings on the effects of collective bargaining on equality and employment (OECD 2019b).

## An enabling environment for sustainable enterprises

**As part of the enabling environment for sustainable enterprises, collective bargaining can contribute to outcomes that are mutually beneficial to both parties.**<sup>15</sup> It provides a means to manage conflict, engage in integrative bargaining, and promote trust and stability, which are the basis for sound industrial relations.<sup>16</sup> Depending on the country and institutional context, collective bargaining can help to solve the collective action problems described by Olson (1965) – for example, through pooled financing of social protection, including healthcare (see Chapter 3). In addition to the “monopoly face” of trade unions, Freeman and Medoff (1984) also identified “collective voice” effects enabling workers to raise concerns with employers and negotiate agreements, leading to positive outcomes in terms of the wage distribution and the retention of experienced workers. Subsequent studies have focused on the way in which collective bargaining can encourage firm-specific investment in training, reduce employee turnover and support high-performance work practices (Appelbaum et al. 2000; Doellgast and Benassi 2020; Doellgast 2008; Doucouliagos, Freeman and Laroche 2017). As Chapter 5 shows, collective bargaining can also serve as a procedural mechanism for managing uncertainty and adapting to changing circumstances. Its positive effects on the ability of enterprises to retain experienced workers during the lockdowns and dramatic economic downturns of the COVID-19 pandemic have proved to be invaluable in jumpstarting economic activity in the recovery phase.

The findings on the effects of trade unions and collective bargaining on productivity and innovation are more ambiguous; studies have variously

13 As emphasized in ILO (2015a, Conclusions, para. 5(a)): “Governments and social partners should identify and close gaps in the coverage of legal protection, paying special attention to occupations and sectors that are excluded, to non-standard forms of employment, and to social groups that are most at risk. Collective bargaining can be an important complement to legislation and it can also be used to provide protection to excluded groups.”

14 The ILO Centenary Declaration for the Future of Work calls upon Member States to develop a human-centred approach to the future of work, which should include the “effective realization of gender equality in opportunities and treatment” (ILO 2019b, Part III(A)(i)), and instructs the ILO to direct its efforts to “achieving gender equality at work through a transformative agenda, with regular evaluation of progress made, which [...] provides scope for achieving better work–life balance by enabling workers and employers to agree on solutions, including on working time, that consider their respective needs and benefits [...]” (ILO 2019b, Part II(A)(vii)). See also ILO (2021a, para. 4).

15 ILO (2017, para. 13(1)) points out: “Sustainable enterprises engage in social dialogue and good industrial relations, such as collective bargaining and worker information, consultation and participation. These are effective instruments to create win–win situations, as they promote shared values, trust and cooperation, and socially responsible behaviour.”

16 In some countries, such as Germany and the Scandinavian countries, employers cite the “peace obligation” in collective agreements as the main reason prompting them to join such agreements (Hornung-Draus 2021, 87).

found positive, negative and insignificant effects (Tzannatos and Aidt 2006; Turnbull 2003; Doucouliagos, Freeman and Laroche 2017).

*The conditions under which social dialogue and collective bargaining can contribute to productivity and performance will be explored in the next Social Dialogue Report, which will focus on the role and impact of “social dialogue in translating economic development into social progress, and social progress into economic development as well as [its impact] on the economic performance and competitiveness of business”.*

(ILO 2018a, Conclusions, para. 6(a)(ii))

## Strengthening compliance

Given that collective bargaining involves both the “negotiation *and* continuous application of an agreed set of rules to govern the substantive and procedural terms of the employment relationship” (emphasis added) (Windmuller 1987, 3), it promotes compliance with those rules. Collective bargaining can complement labour inspectorates and other administrative agencies tasked with monitoring compliance (Müller, Vandaele and Waddington 2019; Mendizábal Bermúdez 2019; ILO 2015b). First, collective bargaining facilitates awareness of the agreed standards (including statutory standards replicated in a collective agreement) that apply in a particular enterprise, sector or country, thereby strengthening adherence to those standards. Second, collective agreements frequently include provisions on how parties will resolve disputes over

the application of their agreements. In countries in which labour administration is weak, **collective bargaining provides a valuable regulatory resource, promoting compliance with agreed provisions in collective agreements** and statutory standards replicated in collective agreements (Lupo and Verma 2020; Serrano 2019). As Chapter 5 shows, the role that collective bargaining has played in strengthening compliance with occupational safety and health standards has proved critical to both business continuity and labour protection during the pandemic.

## Institutional capacity for resilience

**Well-established practices of collective bargaining and tripartite and bipartite social dialogue between peak-level organizations on social and economic policy support institutional capacity for resilience** (Aidt and Tzannatos 2002; Ebbinghaus and Weishaupt 2021; Avdagic, Rhodes and Visser 2011; OECD 2017). Across a variety of disciplines, the key concept of resilience comprises three dimensions: *absorption*, *adaptation* and *transformation* (Ranca, Benczur and Giovannini 2017; Keck and Sakdapolrak 2013). Accordingly, the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), defines resilience as “the ability of a system, community or society exposed to hazards to resist, absorb, accommodate, adapt to, transform and recover from the effects of a hazard in a timely and efficient manner” (Para. 2(b)).

While resilience is often considered from a purely economic angle – that is, in terms of the recovery of economic growth (see, for example, Hallegatte 2014) – the ILO’s concept of resilience as set out in Recommendation No. 205 takes a broader perspective, encompassing employment, working conditions and other aspects of decent work for a human-centred recovery.<sup>17</sup> As Chapter 5 shows, institutions of work, including collective bargaining, can play their part in forging resilience in a manner that ensures the continuity of services, business and employment (*absorption*) in the short term, and facilitates the adjustment of enterprises and labour markets (*adaptation*) in the medium term. Actions taken to bolster the immediate resilience of economies and societies (*absorption* and *adaptation*) may support or undermine capacity for *transformative* resilience. Collective bargaining can help to mitigate the impact of the pandemic on inequality and shape the ongoing transformations so as to contribute to a sustainable and inclusive recovery in the

<sup>17</sup> This broader perspective is reflected in the [Global Call to Action for a Human-Centred Recovery from the COVID-19 Crisis That Is Inclusive, Sustainable and Resilient](#) (ILO 2021a), adopted by the International Labour Conference in June 2021.

medium to long run. Just as the collective bargaining process has been able to draw on institutional learning from previous crises (as in the use of employment retention measures), so it can also strengthen responsiveness and resilience in preparation for future crises.

# 1.3

## Structure of the report

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This report is based on the analysis of national legislation in 125 countries, the gathering of data on the regulatory coverage of collective agreements in 98 countries, and examination of the content of 512 collective agreements, supplemented by in-depth country studies and interviews with key informants in 21 countries across different regions and income levels, surveys of trade unions and employers' organizations, interviews with key informants and data from secondary sources (see Appendices I–VI).

**Chapter 2** deals with the international and national regulatory frameworks established to respect, promote and realize the effective recognition of the right to collective bargaining. It provides a global overview of the procedures and policies shaping the regulatory coverage of collective bargaining. **Chapter 3** considers the substantive outcomes of collective bargaining – that is, the scope of collective agreements reached in countries from different regions and at different levels of economic development. **Chapters 2** and **3** both present evidence of how collective bargaining contributes to the inclusive and effective governance of work. **Chapter 4** reviews current developments concerning employer and business membership organizations and trade unions, assesses the role that they play in collective bargaining and describes their efforts to revitalize their organizations.

**Chapter 5** deals with the contribution of collective bargaining to the response to the COVID-19 pandemic. Emphasizing the regulatory responsiveness of collective bargaining, it provides a unique overview of the bargaining landscape throughout 2020 and 2021 from the perspective of employers' organizations and trade unions. The chapter focuses on substantive responses, including the degree to which collective bargaining secured the continuity of services, protected and valued work on the front lines of the response. It provides evidence of the role played by collective bargaining in ensuring safe and healthy workplaces. The chapter also considers how collective bargaining facilitated adaptability and business continuity, in particular by preserving employment and protecting incomes. Looking to the future, it examines how collective bargaining is providing for decent telework and shaping hybrid working practices beyond the context of the pandemic.

**Chapter 6** wraps up the report by setting out key priorities that will enable collective bargaining to contribute to *a human-centred recovery that is inclusive, sustainable and resilient*. It highlights the need for the revitalization of the key actors in labour markets, namely employers' organizations and trade unions. Moreover, it stresses the importance of realizing the effective recognition of the right to collective bargaining for all workers and of renewing efforts to promote the full development of collective bargaining mechanisms. In considering how these objectives may be achieved, this concluding chapter emphasizes the role of the tripartite actors in creating the necessary policy environment and the key contribution of social dialogue to efforts to achieve the SDGs.



# 2

## Collective bargaining: Shaping regulatory coverage

The regulatory framework for collective bargaining is reflected in a variety of laws, policies and practices. At the international level, it is provided by international labour standards and other human rights instruments. At the national level, it includes procedural rules and rights – grounded in laws or other policies – but also customs and practices established by the parties. There are some countries in which employers and workers are so well organized that the regulatory framework emanates from an agreement between them. However, in most countries the State continues to be necessary for the effective recognition of the right to collective bargaining and the promotion of mechanisms for voluntary negotiations, in good faith, between employers, employers' organizations and workers' organizations.



► 10 June 2016. Executive Director of District Council 37, American Federation of State, County and Municipal Employees (AFSCME), and vice chancellor for labour relations at the City University of New York (CUNY), reach a collective agreement covering more than 20,000 members working at CUNY and valid for 87 months.

This chapter explores the various ways in which legal and institutional frameworks shape the regulatory coverage of collective bargaining: first, through the ratification of international labour standards at the international level, and the supervision of their implementation; second, through national laws and regulations; and, lastly, through the application of collective agreements at different levels. In so doing, the chapter provides insights into how regulatory coverage by collective agreements is shaped and the contribution it can make to the inclusive and effective governance of work. It draws on the analysis of relevant legal provisions in 125 countries and available data on the collective bargaining coverage rate for 98 countries in different regions and at different levels of development (see Appendices I and II).

## 2.1

# The effective recognition of the right to collective bargaining

*The Conference recognizes the solemn obligation of the International Labour Organization to further among the nations of the world programmes which will achieve [...] the effective recognition of the right of collective bargaining [...]*

ILO Constitution, Declaration of Philadelphia, Part III(e)

The effective recognition of the right to collective bargaining is rooted in the ILO Constitution. It was reaffirmed in the ILO Declaration on Fundamental Principles and Rights at Work (1998), according to which **all Member States, even if they have not ratified the fundamental Conventions, have an obligation by virtue of their membership in the ILO to respect, promote and realize, in good faith, the principles concerning those fundamental rights, including the effective recognition of the right to collective bargaining.** Member States that have ratified international labour Conventions on collective bargaining are required to implement those instruments at the national level.

The central obligation is arguably best expressed in Article 4 of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98):

**Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.**

Like many ILO instruments, Convention No. 98 does not specify how a Member State should fulfil this obligation. Typically, States rely on a combination of legislation and principles worked out by the collective bargaining parties themselves (ILO 2012, para. 169). Much of what happens in collective bargaining is and should be decided jointly by the parties. However, as a form of governance (co-regulation), collective bargaining takes place within a broader regulatory framework.

Convention No. 98 identifies two essential elements: action by the public authorities to promote collective bargaining; and the voluntary nature of negotiation, which implies the autonomy of the parties. With the exception of organizations representing categories of workers who may be excluded from the scope of the Convention (namely, the armed forces, the police and public servants engaged in the administration of the State), as provided for by Articles 5 and 6 of the Convention, the recognition of the right to collective bargaining is general in scope and all other organizations of workers in the public and private sectors should benefit from it. Over the years, a number of key principles have been distilled from the work of the ILO bodies tasked with supervising the application of this fundamental Convention (see box 2.1).



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17 March 2022. Meeting of the Committee on Freedom of Association during the 344th Session of the ILO's Governing Body. In the picture, from left to right: Sr. Alberto Echavarría-Saldarriaga (Employer Vice-Chairperson), Prof. Evance Kalula (Chairperson), Ms Amanda Brown (Worker Vice-Chairperson).



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In the picture, from left to right: Sra. Gloria Gaviria (Government member, Colombia), Sr. Gerardo Corres (Government member, Argentina), Mr Akira Isawa (Government member, Japan), Mr Ayuba Wabba (Worker member), Mr Zahoor Awan (Worker member), Sr. Alberto Echavarría-Saldarriaga (Employer Vice-Chairperson), Prof. Evance Kalula (Chairperson), Ms Amanda Brown (Worker Vice-Chairperson), Mr Magnus M. Norddahl (Worker member), Mr Thomas Milton Mackall (Employer member), Mr Hiroyuki Matsui (Employer member), Sr. Fernando Yllanes (Employer member).

[Not in the picture: Government members – Mme Anousheh Karvar (France), Ms Vicki Erenstein Ya Toivo (Namibia), Ms Petra Herzfeld Olsson (Sweden); Employer members – Ms Renate Hornung-Draus, Mr Kaizer Moyane; Worker members – Sr. Gerardo Martínez, Ms Catelene Passchier. Ms Passchier is being replaced by Mr Jeff Vogt as a Worker member of the Committee on Freedom of Association for the remaining period of office of the Governing Body (2021–24)].

► **Box 2.1 The ILO supervisory bodies: The effective recognition of the right to collective bargaining**

Through the review of Member States' legislation and practices, the ILO supervisory bodies – notably the Committee of Experts on the Application of Conventions and Recommendations (CEACR), the Conference Committee on the Application of Standards (CAS) and the Committee on Freedom of Association (CFA) – provide, through constructive dialogue with governments, guidance on improving respect for, and the promotion of, the right to collective bargaining.

**The recognition of the right to collective bargaining is general in scope and covers all workers in the public and private sectors.** The only exceptions provided for in the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), concern the armed forces, the police and public servants engaged in the administration of the State (Articles 5 and 6). The Labour Relations (Public Service) Convention, 1978 (No. 151), and the Collective Bargaining Convention, 1981 (No. 154), progressively extend the scope of application of collective bargaining to public servants engaged in the administration of the State. Given the specific characteristics of collective bargaining in the public service, special modalities for the exercise of collective bargaining rights may be adopted by States. These modalities, however, should not be of such a kind as to entirely negate the principle of promoting collective bargaining in the public administration or render meaningless the subject matter of such collective bargaining (ILO 2018b, para. 1471; 2012, para. 211).

**Collective bargaining is a right of workers' organizations and employers and their organizations (Article 4 of Convention No. 98; Article 1 of Convention No. 154).** Therefore, "recognition by an employer of the main unions represented in the enterprise or bargaining unit, or the most representative of these unions, constitutes the very basis for any procedure of collective bargaining at the enterprise level" (ILO 2012, para. 224). It is acceptable that the union representing the majority or a high percentage of workers in a bargaining unit should enjoy preferential or exclusive bargaining rights. However, requiring too high a percentage may hamper the promotion and development of free and voluntary collective bargaining (ILO 2018b, paras 1352 and 1376; 2012, para. 233). In cases where no union fulfils these conditions, minority trade unions, jointly or separately, should at least be able to conclude a collective or direct agreement on behalf of their own members (ILO 2018b, para. 1389; 2012, para. 234). It follows that collective bargaining with representatives of non-unionized workers should only be possible when there are no trade unions at the respective level (ILO 2018b, para. 1343).<sup>1</sup> Measures should also be taken to prevent direct agreements with non-unionized workers from being used for anti-union purposes (see Article 3(b) of the Workers' Representatives Convention, 1971 (No. 135); Paragraph 2(1) of the Collective Agreements Recommendation, 1951 (No. 91); and ILO 2012, para. 240).

**Collective bargaining must be free and voluntary and respect the principle of the autonomy of the parties.** State interference – such as the imposition of compulsory arbitration outside situations considered acceptable,<sup>2</sup> the direct participation of the State in collective bargaining (tripartite rather than bipartite negotiations) or the submission of the results of collective bargaining to the government for approval – and disregard by the public authorities of collective agreements in force are not permissible. Machinery to support bargaining, such as information, conciliation, mediation or voluntary arbitration, is fully admissible (ILO 2012, para. 200).

**The compulsory prolongation of the validity of collective agreements by a legislative act is only admissible on an exceptional basis,** namely in an acute national or local crisis of a non-economic nature and for short periods of time (ILO 2012, para. 201). This is different from the continuing effect of agreements upon their expiry, as stipulated in legislation, in cases where the parties fail to agree on a new agreement.

**Promoting collective bargaining through machinery adapted to national conditions.** This should be done through legislation or other means and in consultation with the social partners. In accordance with Article 5(2)(d) of Convention No. 154, collective bargaining should not be hampered by the absence of rules governing the procedure to be used or by the inadequacy or inappropriateness of such rules.

**Various ways of facilitating and promoting the conduct of collective bargaining in good faith.** The principle of negotiation in good faith implies "various obligations on the parties involved, namely: (i) recognizing representative organizations; (ii) endeavouring to reach agreement;

**Box 2.1 (cont'd)**

(iii) engaging in real and constructive negotiations; (iv) avoiding unjustified delays in negotiation; and (v) mutually respecting the commitments made and the results achieved through bargaining" (ILO 2012, para. 208). The Collective Bargaining Recommendation, 1981 (No. 163), proposes a number of ways of facilitating and promoting collective bargaining, in accordance with Article 4 of Convention No. 98, including "measures with a view to: (i) facilitating the establishment and growth, on a voluntary basis, of free, independent and representative employers' and workers' organizations; (ii) establishing procedures for the recognition of the most representative organizations; (iii) ensuring that collective bargaining is possible at any level whatsoever; (iv) enabling negotiators to obtain appropriate training and the parties to have access to the information required for meaningful negotiations (such as information on the economic situation of the enterprise, on condition, however, that the objectivity and confidentiality of such financial data [are] subject to reasonable guarantees); and (v) taking measures adapted to national conditions so that procedures for the settlement of labour disputes assist the parties to find a solution to the dispute themselves" (ILO 2012, para. 241).

**Collective bargaining should be possible at any level, including the enterprise, industry, regional and national levels.** Legislation should not unilaterally impose a level of bargaining, or make it compulsory for bargaining to take place at a specific level, as that is essentially a matter for the parties (ILO 2012, para. 222).<sup>3</sup> Moreover, "in countries where collective bargaining takes place at several levels, the parties to negotiations should seek to ensure that there is coordination among these levels" (Recommendation No. 163, Para. 4(2)).

**A collective agreement should be binding on the signatory parties and those on whose behalf the agreement is concluded.** A collective agreement should apply to all workers employed in the undertakings covered by the agreement, unless the agreement specifically provides for the contrary (Recommendation No. 91, Paras 3 and 4). Moreover, Paragraph 5 of Recommendation No. 91 points out that "having regard to established collective bargaining practice, measures, to be determined by national laws or regulations and suited to the conditions of each country, should be taken to extend the application of all or certain provisions of a collective agreement to all the employers and workers included within the industrial and territorial scope of the agreement".

**Collective agreements should have primacy over individual contracts of employment, with the exception of situations where the provisions in a contract are more favourable to workers** (Recommendation No. 91, Para. 3). This is referred to as the "principle of favourability". In many national legal systems, this principle is acknowledged in relation to the law, individual employment contracts and a collective agreement (or agreements) at a higher level.

National law may allow collective agreements to derogate from the protective provisions of legislation. However, such derogations should be targeted (that is, cover specific aspects of conditions of work) and be applied only in a circumscribed and reasoned manner.<sup>4</sup>

**Collective bargaining covers the terms and conditions of work and employment, and the regulation of relations between employers and workers (and their respective organizations).** The concept of "conditions of work" encompasses not only traditional areas (for example, wages, working time and rest periods), but also subjects that the parties decide freely to address (for example, promotion, employment protection and work organization). "Article 4 of Convention No. 98 in no way places a duty on the government to enforce collective bargaining, nor would it be contrary to this provision to oblige social partners, within the framework of the encouragement and promotion of the full development and utilization of collective bargaining machinery, to enter into negotiations on terms and conditions of employment. The public authorities should however refrain from any undue interference in the negotiation process" (ILO 2018b, para. 1317). The scope of negotiable issues should not be restricted unilaterally by the authorities. Tripartite discussions for the preparation, on a voluntary basis, of guidelines for collective bargaining are an appropriate method of resolving related difficulties (ILO 2012, para. 215).<sup>5</sup>

**Procedures for the settlement of labour disputes should support the parties in finding a solution to the dispute themselves.** Convention No. 154 stipulates that mechanisms for the settlement of labour disputes should be so conceived as to contribute to the promotion of collective bargaining (Article 5(c)). The Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92), notes that voluntary conciliation and arbitration mechanisms may be constituted on a joint basis and that the procedures should be free of charge and expeditious. It calls on the parties to abstain

## Box 2.1 (cont'd)

from strikes and lockouts while voluntary procedures are in progress. Moreover, the bodies entrusted with resolving disputes should be independent (ILO 2012, para. 243).<sup>6</sup> Effective labour dispute systems rely on consensus-based approaches that are rooted in collective bargaining and social dialogue (ITC 2013). By helping to establish just and equitable conditions of work, a collective agreement fosters an atmosphere of mutual trust and contributes to social peace (ILO 2012, para. 167).

1 See also [Individual case concerning the application of Convention No. 98 by Romania \(CAS\)](#) – Discussion: 2021, Publication: 109th Session of the International Labour Conference (2021).

2 The CEACR notes that “compulsory arbitration is only acceptable in certain specific circumstances, namely: (i) in essential services in the strict sense of the term, that is those the interruption of which would endanger the life, personal safety or health of the whole or part of the population; (ii) in the case of disputes in the public service involving public servants engaged in the administration of the State; (iii) when, after protracted and fruitless negotiations, it becomes obvious that the deadlock will not be broken without some initiative by the authorities; or (iv) in the event of an acute crisis” (ILO 2012, para. 247).

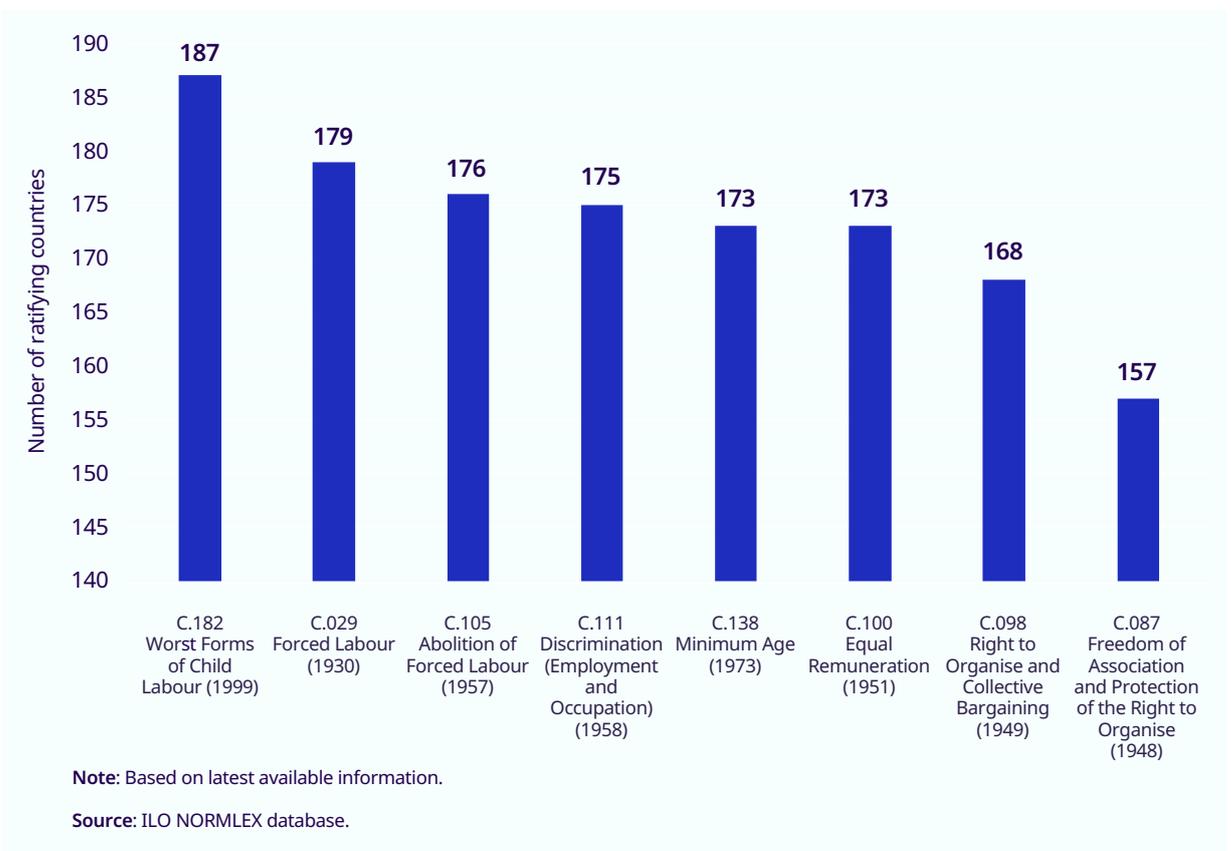
3 “The determination of the bargaining level is essentially a matter to be left to the discretion of the parties. Thus, the Committee does not consider the refusal by employers to bargain at a particular level as an infringement of freedom of association.” (ILO 2018b, para. 1405)

4 [Observation by the CEACR on the application of Convention No. 98 by Brazil](#) – Publication: 109th Session of the International Labour Conference (2021); ILO (2018c, para. 799).

5 However, obligations that require the parties to negotiate in good faith over certain issues are in conformity with the international labour Conventions and ILO principles, as long as the legal obligation is to negotiate and not to reach an agreement ([Definitive Report by the CFA on Case No. 2149 \(Romania\)](#) – Publication: June 2002).

6 The CEACR has pointed out that the mere intervention of a neutral, independent third party in which the parties to a dispute have confidence is often sufficient to break a stalemate that the parties would be unable to resolve by themselves (ILO 2012, para. 243).

► Figure 2.1 Ratification status of the eight fundamental international labour Conventions



To date, Convention No. 98 has been ratified by 168 Member States (figure 2.1). When it comes to ratification and implementation, the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), lags behind almost all the other fundamental Conventions.

Recognizing the foundational role of Convention No. 98 in providing a framework for the realization of the right to collective bargaining by Member States, four additional countries have ratified it over the past five years: Canada (2017), Mexico (2018), Viet Nam (2019) and the Republic of Korea (2021) (see box 2.2).

► **Box 2.2 Regulatory developments in countries that recently ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98)**

**Canada** ratified Convention No. 98 in 2017, following three Supreme Court judgments which made it clear that freedom of association, guaranteed under the Canadian Charter of Rights and Freedoms, includes the right to form independent associations and engage in collective bargaining. This ratification also fulfilled a commitment made under the Comprehensive Economic and Trade Agreement between Canada and the European Union (EU) (in force since 2017).

**Mexico** ratified Convention No. 98 in 2018. The country has recently initiated a comprehensive labour law reform through the amendment of the Constitution (2017) and the Federal Labour Act (2019), and the adoption of implementing regulations to establish the necessary institutions. These steps are intended to return control over collective rights to workers (Bensusán 2020) and to fulfil commitments in trade agreements, such as the United States–Mexico–Canada Agreement (in force since 2020). The reform addresses issues such as employers' control of trade unions, collective bargaining without effective workers' representation, and the use of "protection contracts" (that is, collective agreements not representative of the workers covered). It also affirms a number of principles regarding collective bargaining: the representativeness of the parties, certainty in the conclusion of collective agreements (for example, in registration) and trade union democracy. Existing collective agreements should be legitimized (accepted or rejected) by the workers covered through a personal, direct, free and secret vote.

**Viet Nam** ratified Convention No. 98 in 2019, fulfilling commitments under the EU–Viet Nam Free Trade Agreement (in force since 2020). The 2019 Labour Code provides for the establishment of worker organizations at the enterprise level that are not affiliated to the Vietnam General Confederation of Labour. These have the right to collective bargaining if they reach a membership threshold to be set by the Government, or they may jointly initiate the collective bargaining process if none achieves the membership threshold. Multi-employer bargaining is provided for through the formation of provincial collective bargaining committees. The extension of a multi-employer bargaining agreement is possible if the agreement covers 75 per cent of the labour force or enterprises of that industry within the specified area.

The **Republic of Korea** ratified Convention No. 98 in 2021, fulfilling commitments under the EU–Republic of Korea Free Trade Agreement (in force since 2015). Restrictions on the right to organize, specifically in the public sector and among laid-off workers and the unemployed, have been abolished. For instance, regulations restricting the membership rights of members of a company's trade union who have been dismissed and restricting the activities of union members who are not engaged in the workplace were repealed. Furthermore, the provision stipulating that only civil servants in the "administrative tier" (tier 6 or lower) may join a union has been removed; firefighters are now included among the civil servants who may join a union; and it is now up to the union to determine the eligibility criteria for retired public officials.



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► 20 April 2021. The Korean Minister of Employment and Labor, Lee Jae Kap, presenting to ILO Director-General, Guy Ryder, the instruments of ratification of ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); and the Forced Labour Convention, 1930 (No. 29).

Convention No. 98 is complemented and supported by a number of other Conventions and Recommendations (see box 2.3). The Collective Bargaining Convention, 1981 (No. 154), and its accompanying Recommendation (No. 163) are key to the promotion and implementation of the principles of Convention No. 98. Article 2 of Convention No. 154 defines collective bargaining as:

**all negotiations which take place between an employer, a group of employers or one or more employers' organisations, on the one hand, and one or more workers' organisations, on the other, for (a) determining working conditions and terms of employment; and/or (b) regulating relations between employers and workers; and/or (c) regulating relations between employers or their organisations and a workers' organisation or workers' organisations.**

Recommendation No. 163 complements Convention No. 154 by detailing measures that can be taken by public authorities and the negotiating parties to promote collective bargaining. In turn, Convention No. 154 and the Labour Relations (Public Service) Convention, 1978 (No. 151), complement Convention No. 98 by extending the scope of application of collective bargaining to all workers in the public service, including those engaged in the administration of the State. Finally, Paragraph 2(1) of the Collective Agreements Recommendation, 1951 (No. 91), defines collective agreements as:

**all agreements in writing regarding working conditions and terms of employment concluded between an employer, a group of employers or one or more employers' organisations, on the one hand, and one or more representative workers' organisations, or, in the absence of such organisations, the representatives of the workers duly elected and authorised by them in accordance with national laws and regulations, on the other.**

The importance that Member States attach to the promotion and effective realization of the right to collective bargaining is also reflected in the ratification of the supporting Conventions over the past five years. Accordingly, Convention No. 151 was ratified by four additional countries, namely the Philippines (2017), Namibia (2018), Montenegro (2019) and Madagascar (2019), while Convention No. 154 was ratified by three additional countries, namely Czechia (2017), Rwanda (2018) and Madagascar (2019).

### ► Box 2.3 International labour standards related to collective bargaining

#### Fundamental Conventions on freedom of association and collective bargaining

- C.087 – Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- C.098 – Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

#### Industrial relations

- C.135 – Workers' Representatives Convention, 1971 (No. 135)
- R.143 – Workers' Representatives Recommendation, 1971 (No. 143)
- C.151 – Labour Relations (Public Service) Convention, 1978 (No. 151)
- R.159 – Labour Relations (Public Service) Recommendation, 1978 (No. 159)
- C.154 – Collective Bargaining Convention, 1981 (No. 154)
- R.163 – Collective Bargaining Recommendation, 1981 (No. 163)
- R.091 – Collective Agreements Recommendation, 1951 (No. 91)
- R.113 – Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113)

#### Freedom of association (agriculture, non-metropolitan territories)

- C.141 – Rural Workers' Organisations Convention, 1975 (No. 141)
- R.149 – Rural Workers' Organisations Recommendation, 1975 (No. 149)

#### *Instruments with interim status:*

- C.011 – Right of Association (Agriculture) Convention, 1921 (No. 11)
- C.084 – Right of Association (Non-Metropolitan Territories) Convention, 1947 (No. 84)

Source: ILO NORMLEX database.

**The right to collective bargaining is also recognized by the principal international human rights instruments, at both the global and the regional levels.** The Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (ICCPR; 1966) and the International Covenant on Economic, Social and Cultural Rights (ICESCR; 1966) all recognize and protect freedom of association without explicitly mentioning collective bargaining (ILO 2012, paras 21 and 23). However, the two bodies responsible for monitoring States' compliance with the provisions of the ICCPR and the ICESCR – the Human Rights Committee and the Committee on Economic, Social and Cultural Rights – consider the right to collective bargaining to be protected by Article 22 of the ICCPR and Article 8 of the ICESCR, both of which deal with freedom of association (UN 1997; OHCHR 1996). Moreover, in its general comment with respect to Article 7 of the ICESCR on the right to just and favourable conditions of work, the Committee on Economic, Social and Cultural Rights specifically noted that the obligation to fulfil that article includes the

introduction of “measures to facilitate, promote and provide that right, including through collective bargaining and social dialogue” (CESCR 2016, para. 60). In recognition of the role that these substantive freedoms play in the pursuit of the SDGs, freedom of association and the effective recognition of the right to collective bargaining are included among the indicators of progress towards Goal 8, “Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all” (see box 2.4).

At the regional level, in Europe the right to collective bargaining is explicitly recognized in Article 28 of the Charter of Fundamental Rights of the European Union (declared in 2000), and in Article 6 of the European Social Charter (1961) and the Revised Charter of 1996 (ILO 2012, paras 31 and 34). While Article 11 (“Freedom of assembly and association”) of the European Convention on Human Rights (1950) does not explicitly mention the right to collective bargaining, the European Court of Human Rights considers that it is protected as an essential element of freedom of association.<sup>1</sup>

► **Box 2.4 Freedom of association, the effective recognition of the right to collective bargaining and the United Nations Sustainable Development Goals**

Freedom of association and the effective recognition of the right to collective bargaining hold particular significance when it comes to achieving decent work. As enabling rights and substantive freedoms, they play a fundamental role in the realization of many of the United Nations (UN) Sustainable Development Goals (SDGs), including Goal 8, “Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all”.

The UN General Assembly has established a system for following up on and reviewing progress in implementation of the SDGs and their associated targets based on a set of global indicators (resolution 70/1). To that end, indicator 8.8.2 was adopted. Entitled “Level of national compliance with labour rights (freedom of association and collective bargaining) based on International Labour Organization (ILO) textual sources and national legislation, by sex and migrant status”, this indicator focuses on progress related to freedom of association and collective bargaining rights.<sup>1</sup> As noted by the UN Secretary-General in April 2021, although there has been slight progress at the global level (several countries have introduced important changes), violations of workers’ and employers’ rights to organize and bargain collectively remain significant. The global average of the indicator in 2018 stood at 5.35, little changed from 5.37 in 2017. Among the regions and subregions facing considerable challenges in this respect are Asia and Northern Africa; regions and subregions with relatively few challenges are Northern America and Europe (UN 2021a, para. 98; UN 2021b, 117).

1 SDG indicator 8.8.2 has a range from 0 to 10, with 0 being the best possible score (indicating higher levels of compliance with freedom of association and collective bargaining rights) and 10 the worst (indicating lower levels of compliance with these rights). As adopted in ILO (2018d, 17–18), “SDG indicator 8.8.2 seeks to measure the level of national compliance with fundamental labour rights (freedom of association and collective bargaining). It is based on six International Labour Organization (ILO) supervisory body textual sources and also on national legislation. National law is not enacted for the purpose of generating a statistical indicator of compliance with fundamental rights, nor were any of the ILO textual sources created for this purpose. Indicator 8.8.2 is compiled from these sources and its use does not constitute a waiver of the respective ILO Constituents’ divergent points of view on the sources’ conclusions. [...] SDG indicator 8.8.2 is not intended as a tool to compare compliance among ILO member States. It should specifically be noted that reporting obligations of an ILO member State to the ILO’s supervisory system and thus ILO textual sources are different for ratifying and non-ratifying ILO member States.”

1 European Court of Human Rights, *Demir and Baykara v. Turkey*, Application No. 34503/97 (12 November 2008), *Judgment of 15 October 2008*, para. 154.

In Africa, the African Commission on Human and Peoples' Rights, which is tasked with interpreting the African Charter on Human and People's Rights (1981), considers that the right to collective bargaining is included in the right to work protected by Article 15 of that instrument (ACHPR, n.d., paras 56 and 59). In the Americas, the right to collective bargaining is recognized by Article 45(c) of the Charter of the Organization of American States (1948). While the right to collective bargaining is not explicitly mentioned in the American Convention on Human Rights (1969), which refers to freedom of association (Article 16), the Inter-American Commission on Human Rights considers that it is, implicitly, a basic collective right (IACHR 2020, para. 52).<sup>2</sup>

## 2.2

# Collective bargaining around the world: Key regulatory trends

To ensure the effective recognition of the right to collective bargaining and encourage the full development of such bargaining, regulatory

frameworks are developed – through laws or collective agreements – with a view to allowing the parties to jointly establish working conditions, terms of employment and labour relations by means of collective agreements. These frameworks are shaped by the institutional context and address issues such as the legal coverage (that is, personal scope) of the right to bargain collectively, the recognition of the parties for the purposes of collective bargaining, the process of voluntary negotiations and the application of the collective agreement. This section examines these regulatory frameworks and the manner in which they enable collective bargaining to contribute to the inclusive and effective governance of work.

### 2.2.1 Legal coverage of the right to collective bargaining

**Collective bargaining principles and rights, like other fundamental principles and rights at work, are universal in nature and – with very few exceptions (see box 2.1) – apply to all workers.** More than 60 countries include specific provisions on the right to collective bargaining in their constitutions (ILO 2012, para. 9). The Plurinational State of Bolivia,<sup>3</sup> Kenya<sup>4</sup> and Zimbabwe<sup>5</sup> are the most recent countries to provide for constitutional recognition of the right to collective bargaining.

The continued exclusion of important categories of workers from the right to collective bargaining inhibits the potential for collective bargaining to contribute to the inclusive and effective governance of work.<sup>6</sup> However, over the past 10 to 15 years, **several countries have extended the right to collective bargaining to previously excluded workers and sectors** and/or adopted innovative institutional strategies to ensure its effective recognition in situations in which it was difficult for workers and employers to exercise

<sup>2</sup> In May 2021, the Inter-American Commission on Human Rights issued an advisory opinion reaffirming that the right to collective bargaining is an essential part of freedom of association, including the progressive encouragement of voluntary bargaining. See [Advisory Opinion OC-27/21 of 5 May 2021](#), para. 94 (available in Spanish only).

<sup>3</sup> [CEACR observation concerning the application of Convention No. 98 by the Plurinational State of Bolivia \(2010\)](#).

<sup>4</sup> [CEACR observation concerning the application of Convention No. 98 by Kenya \(2011\)](#).

<sup>5</sup> [CEACR observation concerning the application of Convention No. 98 by Zimbabwe \(2016\)](#).

<sup>6</sup> Various countries and territories have been the subject of comments by the CEACR regarding the application of Convention No. 98 on the way in which possible restrictions or obstacles to the right to bargain collectively can affect certain economic activities or occupations in the private sector (see also [CFA Case No. 3337](#) involving Jordan), including: Belgium ([direct request](#), 2021); Bermuda ([direct request](#), 2019); Plurinational State of Bolivia ([observation](#), 2021); Canada ([direct request](#), 2021); Eritrea ([observation](#), 2019); Ethiopia ([observation](#), 2021); Gambia ([observation](#), 2021); Guinea-Bissau ([observation](#), 2021); Jordan ([observation](#), 2018); Kuwait ([observation](#), 2018); Lebanon ([observation](#), 2019); Macao Special Administrative Region, China ([observation](#), 2018); Madagascar ([observation](#), 2018); Nigeria ([observation](#), 2019); Pakistan ([observation](#), 2019); Syrian Arab Republic ([observation](#), 2019); Trinidad and Tobago ([observation](#), 2019). In this connection, see also ILO (2012, para 209).

that right in practice. Four developments are worth noting – they concern, respectively, public sector workers; workers in sectors or occupations where the right continues to be limited; workers in the informal economy; and workers in diverse forms of work arrangements. First, **there has been a clear tendency towards affording collective bargaining rights to workers in the public sector** (ILO 2013a, para. 28), as has happened in, for example, Colombia, Czechia, Mozambique, Panama, the Philippines, Tunisia, Turkey and Uruguay.

Second, **legislative and institutional steps have been undertaken to promote collective bargaining in specific sectors, occupations or groups of workers among which the effective recognition of the right continues to be limited (such as domestic workers, migrant workers, agricultural workers and workers in export processing zones)** (ILO 2012, para. 209). For example, Jordan has extended the right to collective bargaining to both domestic and agricultural workers through the amendment of national laws.<sup>7</sup> In other countries, the promotion of collective bargaining facilitated the effective recognition of that right for agricultural workers. Thus, in Namibia, the Namibia Agricultural Labour Forum (composed of the Agricultural Employers' Association, the Namibia National Farmers Union, the Namibia Emerging Commercial Farmers' Union, and the Namibia Farm Workers Union) negotiated collective agreements on minimum wages in the agricultural sector that applied to all workers in the sector. In Niger, rural workers' organizations participated in negotiations through the regional chambers of agriculture (ILO 2015c, para. 164). In Uzbekistan, the Agricultural Sector Workers' Union concluded a sectoral agreement for 2013–15 with the Council of Farmers, on the basis of which collective agreements between farmers and workers have been concluded in 98.2 per cent of existing farms. In Israel, the National Union of Agricultural Workers and the Histadrut (General Federation of Labour) concluded a collective agreement with the Farmers' Association applicable to all workers in the agricultural sector (ILO 2015c, para. 163).

As for workers in export processing zones (EPZs), in Nigeria, in sectors with a functioning national joint industrial council, collective agreements have been concluded that are applicable to such zones. In Bangladesh, the Export Processing Zones Labour Act (2019) was amended to lower

the threshold for establishing a workers' welfare association at an enterprise from 30 per cent of the workforce to 20 per cent. In Nicaragua, in response to complaints concerning freedom of association and collective bargaining in EPZs, the Government established a tripartite labour committee for such zones to promote collective bargaining (ILO 2017a, paras 63–64). In 2016, a new regulation on EPZs explicitly extended all labour law protections to workers in such zones (EC 2020). As at June 2015, a total of 20 collective agreements had been signed at the national level in Nicaragua's EPZs, covering around 48,200 workers.<sup>8</sup>

The third notable development is that, in line with the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204) (see box 2.5), **a variety of strategies have been adopted by Member States and employers' and workers' organizations to effectively recognize the right to collective bargaining in respect of workers in the informal economy.** The challenge here is that informality, by definition, implies a weak relationship with the law. This may be either because the activities of workers in the informal economy do not fall under the reach of labour law, or because of non-compliance with the law, as in the case of undeclared workers (ILO 2013b). In some countries, collective bargaining is limited in law to workers considered to be "employees", often requiring a written contract as the basis of the relationship, or to those in formal employment. The problem is compounded by the fact that workers' organizations representing informal workers often lack recognition and legal personality and thus cannot function properly and provide services, including collective bargaining. It may also be difficult to identify bargaining counterparts (for example, in the case of informal domestic workers), which precludes large groups of workers from bargaining. Nevertheless, as discussed in Chapter 4, there are important examples of organization, collective representation and negotiations in the informal economy which can arguably be seen as preliminary steps towards collective bargaining and transitioning to the formal economy. For example, in Senegal, the National Confederation of Senegalese Workers initiated steps to formalize workers in the private security sector, including the creation of unions in companies that employ guards. The Confederation negotiated a collective agreement with employers in January 2019 (which entered into

7 CEACR observation concerning the application of Convention No. 98 by Jordan (2015).

8 CEACR observation concerning the application of Convention No. 98 by Nicaragua (2015).

force in February 2019); it covers aspects such as social dialogue, representation, wages, social security, career development, professional classification and disciplinary measures (ILO 2019c).

► **Box 2.5 Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)**

[...]

VII. Freedom of association, social dialogue and role of employers' and workers' organizations

31. Members should ensure that those in the informal economy enjoy freedom of association and the right to collective bargaining, including the right to establish and, subject to the rules of the organization concerned, to join organizations, federations and confederations of their own choosing.

32. Members should create an enabling environment for employers and workers to exercise their right to organize and to bargain collectively and to participate in social dialogue in the transition to the formal economy.

33. Employers' and workers' organizations should, where appropriate, extend membership and services to workers and economic units in the informal economy.

[...]

Source: ILO NORMLEX database.

Finally, **several countries have adopted legislation to ensure the effective recognition of the right to collective bargaining for workers in diverse forms of work arrangements** (see box 2.6). Labour laws have traditionally focused on the subordinate relationship that exists between an employer and employee, which is typically characterized by employment that is full-time and of indefinite duration. In recent decades, there has been a proliferation of diverse forms of work arrangements, including temporary employment, part-time and on-call work, multi-party employment relationships, dependent self-employment<sup>9</sup> (as recognized in some jurisdictions) and, most recently, platform work performed under various

work and employment relationships.<sup>10</sup> In parallel, there has also been an increase in the misclassification of workers in disguised employment (ILO 2016). Workers in these diverse forms of work arrangements may not be able to bargain collectively, either because the right to collective bargaining is restricted to "employees", or because their tenuous attachment to the workplace prevents them from enjoying the effective recognition of this right and being able to exercise it. In addition, in some contexts, competition policy may give rise to regulatory constraints – for example, if collective bargaining by self-employed workers, such as artisans and journalists, is construed as the actions of a cartel engaged in "price-fixing" in violation of anti-trust laws (Countouris and De Stefano 2021).

In a number of countries, legislation and existing collective agreements ensure that workers in diverse forms of work arrangements enjoy the right to bargain collectively. For example, under the Trade Union and Labour Relations (Consolidation) Act 1992, "workers" in the United Kingdom of Great Britain and Northern Ireland have the same collective rights as "employees". Similarly, dependent contractors in Canada and employee-like persons in Germany are afforded the right to collective bargaining (Canada, ESDC 2019; ILO 2016, 37–38). In Poland, the scope of collective bargaining rights has been extended to all "persons working for money".<sup>11</sup>

Countries have also addressed constraints to collective bargaining rights posed by competition policy. In Ireland, the Competition (Amendment) Act 2017 explicitly stipulates that the prohibition on entering into price-fixing agreements does not apply to collective bargaining, and agreements in respect of relevant categories of self-employed workers as set out in schedule 4 accompanying the Act. The European Court of Justice ruled that, in the Netherlands, the "false self-employed" (that is, service providers in a situation comparable to that of employed workers) were not to be considered as "undertakings" for the purpose of competition rules. The Court of Appeal of The Hague subsequently issued a decision indicating that competition law does not preclude the application of collective agreements to self-employed substitutes (for example, musicians substituting for members of an orchestra).<sup>12</sup>

<sup>9</sup> This does not include self-employed persons with genuine business and commercial interests.

<sup>10</sup> While there is no official definition of what constitutes diverse forms of work arrangements, the concept typically encompasses work that falls outside the realm of the standard employment relationship (ILO 2016). See also ILO (2015d).

<sup>11</sup> CEACR observation concerning the application of Convention No. 98 by Poland (2019).

<sup>12</sup> CEACR observation concerning the application of Convention No. 98 by the Netherlands (2018).



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### ► Box 2.6 Collective bargaining as a right for all workers?

In recent years, the ILO has increasingly focused on the access of workers in diverse forms of work arrangements in general, and of self-employed workers in particular, to collective bargaining.<sup>1</sup> The ILO supervisory bodies have reiterated the universal character of the principles and rights enshrined in the fundamental Conventions. In 2019, the ILO Centenary Declaration for the Future of Work called upon all Members to strengthen the institutions of work to ensure adequate protection for all workers. It reaffirmed the continued relevance of the employment relationship as a means of providing legal protection to workers, emphasizing that all workers should enjoy adequate protection in accordance with the Decent Work Agenda, taking into account respect for their fundamental rights (ILO 2019b, Part III(B)). More specifically, the ILO supervisory bodies have systematically noted that the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), cover all employers and workers without establishing distinctions based on their contractual status (ILO 2018b, paras 1277–1278, 1283, 1285; ILO 2012, para. 209; see also ILO 2016, 208–215).

### Box 2.6 (cont'd)

According to the ILO's Committee on Freedom of Association (CFA) and the Committee of Experts on the Application of Conventions (CEACR),<sup>2</sup> workers who are self-employed should enjoy trade union rights, which are important to further and defend their interests, including through collective bargaining. In this respect, the CFA asked governments to identify, in consultation with the social partners concerned, the particularities of self-employed workers that have a bearing on collective bargaining so as to develop specific collective bargaining mechanisms relevant to self-employed workers, if appropriate.<sup>3</sup> In 2016, the Conference Committee on the Application of Standards (CAS) engaged in a rich discussion of the collective bargaining rights of self-employed workers in Ireland and the constraints posed by EU and Irish competition law. In its consensual conclusion, reflecting on the divergent views held by the ILO constituents, the Committee suggested that the Government and the social partners should "identify the types of contractual arrangements that would have a bearing on collective bargaining mechanisms".<sup>4</sup>

Similarly, the ILO supervisory bodies have on multiple occasions reaffirmed the right to collective bargaining in respect of fixed-term and temporary workers, part-time workers, apprentices and outsourced or contract workers. Particularly in relation to fixed-term contracts, it has been stressed that these should not be used for anti-union purposes and that their repeated use can be an obstacle to the exercise of trade union rights. As for part-time employees, the supervisory bodies have noted that while their particular circumstances may call for differentiated treatment and adjustments (as regards, say, the definition of bargaining units or rules of certification), the basic rights of association and collective bargaining should be afforded to part-time employees as well (ILO 2018b, para. 1278). With regard to platform workers, the CEACR has emphasized that "the full range of fundamental principles and rights at work are applicable to platform workers in the same way as to all other workers, irrespective of their employment status" (ILO 2020a, para. 327).

Given the rise in diverse forms of work arrangements, there may be a need at the national level to review existing regulatory frameworks to ensure that those in work relations who require the protections provided by labour laws and other laws and regulations are indeed afforded them, including the effective recognition of the right to collective bargaining. This may involve evaluating the personal scope of the employment relationship to provide legal clarity on the employment status of workers in diverse forms of work arrangements. In line with the Employment Relationship Recommendation, 2006 (No. 198), a number of possible indicators can be considered to determine the existence of an employment relationship. This is not an exhaustive list. As the CEACR has noted, "In the event of dispute, it is for the courts or other dispute resolution bodies to determine on a case-by-case basis whether or not an employment relationship exists in light of the legally established indicators [...]" (ILO 2020a, para. 249). The CEACR has also emphasized that "current indicators may no longer be useful in determining the existence of future employment relationships. Member States should therefore consider the need to establish new criteria or revise existing criteria as appropriate. This would be in accordance with [...] the need to periodically review, clarify and adapt the scope of relevant laws to guarantee the effective protection of workers in an employment relationship" (ILO 2020a, para. 250). In this respect, in a request for information from the Government of Belgium regarding the way in which workers in the digital platform economy were able to organize and conduct collective bargaining, the CEACR invited it "to hold consultations with the parties concerned with a view to ensuring that all platform workers covered by the Convention [No. 98], irrespective of their contractual status, are authorized to participate in a free and voluntary collective bargaining".<sup>5</sup>

1 In this respect, various countries and territories have been the subject of comments by the CEACR regarding the application of Convention No. 98, including: Belgium ([direct request](#), 2021); Brazil ([observation](#), 2021); Canada ([direct request](#), 2021); Colombia ([observation](#), 2021); Dominican Republic ([observation](#), 2021); Ireland ([direct request](#), 2019); Macao Special Administrative Region, China ([observation](#), 2018); Netherlands ([observation](#), 2018); New Zealand ([direct request](#), 2018); Peru ([observation](#), 2019); Poland ([observation](#), 2019); South Africa ([direct request](#), 2019); Syrian Arab Republic ([observation](#), 2019); Trinidad and Tobago ([observation](#), 2020). See also ILO (2015d).

2 See, in particular, ILO (2012, para. 219) and the CEACR observations concerning the application of Convention No. 98 by [Brazil \(2021\)](#), [Canada \(2021\)](#), [Ireland \(2018\)](#) and the [Netherlands \(2018\)](#).

3 See ILO (2018b, para. 1285); CFA Case No. 2602 (Republic of Korea), [Report No. 363 \(March 2012\)](#), para. 461.

4 [Individual case concerning the application of Convention No. 98 by Ireland \(CAS\)](#) – Discussion: 2001, Publication: 105th Session of the International Labour Conference (2016).

5 [CEACR direct request concerning the application of Convention No. 98 by Belgium \(2021\)](#).

## 2.2.2 Setting up the bargaining table

The manner in which the bargaining table is set up – including the recognition of the parties who may take a seat at the table and the “rules of engagement” – plays an important part in determining the degree to which collective bargaining may contribute to the inclusive and effective governance of work. Collective bargaining as a voluntary process is predicated on the autonomy of the parties. **The role of the public authorities – and of the institutional and regulatory framework – is to promote the full development of collective bargaining. A fine balance needs to be struck between the promotional and enabling role of the State on the one hand, and the autonomy of the bargaining parties on the other.** There is considerable variation among countries, ranging from “voluntaristic” industrial relations systems,<sup>13</sup> where the parties establish their own procedural rules for collective bargaining with minimal involvement by the State (for example, Sweden or Norway), to those where the public authorities play an active role in promoting collective bargaining by “setting up the table”.

While the bargaining parties in most countries are the employer (or employers’ organization) on the one hand, and the trade union on the other, collective bargaining may, depending on the industrial relations system, involve elected representatives, such as works council representatives (as in Austria, France, Germany or the Netherlands). In addition, a number of countries – sometimes contrary to the principles set out in box 2.1 – are granting an increasingly greater role to non-unionized workers, allowing them to bargain collectively with the employer directly. This may undermine the position of representative trade unions and the levels of protection afforded by the agreements that they negotiate (see box 2.7).<sup>14</sup>

**The effective recognition of the *representative* parties for the purposes of collective bargaining is key to the promotion of such bargaining.** This may be determined voluntarily (for example, through a recognition agreement) or through statutory means. Where public authorities apply procedures for recognition with a view to determining who is entitled to sit at the bargaining table, this is frequently based on pre-established and objective criteria, set out in codes of practice or legislation. The process may involve demarcating the bargaining unit (for example, in terms of territorial scope, sector, occupation or enterprise) and setting thresholds of representativity for workers’ and employers’ organizations to be able to bargain collectively. Some countries and systems recognize the union that represents the majority (or a high percentage of workers) in a bargaining unit as the exclusive bargaining agent (see box 2.1). However, in a few cases, the legislation requires a trade union to receive the support of at least 50 per cent of the members of a bargaining unit to be recognized as an exclusive bargaining agent.<sup>15</sup> This means that if a representative union fails to secure the absolute majority, it may be denied the possibility of bargaining. In other countries, the law prescribes, variously, a threshold of 40 per cent (as in Guyana, Jamaica and Sri Lanka), 30 per cent (as in Bangladesh, Botswana, the Gambia and Pakistan), or 20 per cent (as in Malawi). In situations where no union meets these conditions, minority unions jointly or separately should be able to conclude a collective agreement at least on behalf of their members.

<sup>13</sup> In Europe, these have recently been described as being characterized by “voluntary associational governance” (Eurofound 2020a, 38).

<sup>14</sup> There are 20 countries with regard to which the CEACR has recently made related comments concerning the application of Convention No. 98: Armenia ([observation](#), 2021); Australia ([direct request](#), 2021); Bangladesh ([observation](#), 2018); Bosnia and Herzegovina ([direct request](#), 2021); Burundi ([observation](#), 2021); Cambodia ([observation](#), 2021); Central African Republic ([observation](#), 2021); Colombia ([observation](#), 2021); Costa Rica ([observation](#), 2021); Croatia ([observation](#), 2021); France ([direct request](#), 2021); Greece ([observation](#), 2019); Kazakhstan ([observation](#), 2018); Kyrgyzstan ([direct request](#), 2021); Nepal ([observation](#), 2019); Pakistan ([observation](#), 2019); Romania ([observation](#), 2021); Russian Federation ([observation](#), 2019); Sri Lanka ([observation](#), 2021); Tajikistan ([direct request](#), 2021).

<sup>15</sup> Countries with regard to which the CEACR has recently made observations on their application of Convention No. 98 in relation to the 50 per cent threshold are, for example: Belize ([observation](#), 2021); Dominican Republic ([observation](#), 2021); Ecuador ([observation](#), 2021); El Salvador ([observation](#), 2021); Lesotho ([observation](#), 2018); Romania ([observation](#), 2021); Trinidad and Tobago ([observation](#), 2021); Turkey ([observation](#), 2021).

► **Box 2.7 Recent comments by the CEACR concerning the application of Convention No. 98**

In **Colombia**, the CEACR requested the Government to take measures to ensure that collective agreements with non-unionized workers could only be concluded in the absence of trade union organizations. The Committee pointed out that “direct bargaining between the enterprise and unorganized groups of workers, in avoidance of workers’ organizations, where they exist, is not in accordance with the promotion of collective bargaining” (CEACR observation concerning the application of Convention No. 98 by Colombia (2021)).

In **Costa Rica**, the CEACR noted with concern that, although the number of collective agreements in the private sector remained low, the number of direct agreements with non-unionized workers was high and had increased. While noting Ruling No. 12457-2011 of the Constitutional Chamber of the Supreme Court of Justice, which confirmed that direct agreements could not prejudice the negotiation of collective agreements and, consequently, the exercise of freedom of association (and noting also the related Circular No. 018-12 issued by the labour inspectorate), the CEACR pointed out that “in practice[,] the negotiation of terms and conditions of employment and work by groups which do not fulfil the guarantees required to be considered workers’ organizations can be used to undermine the exercise of freedom of association and weaken the existence of workers’ organizations with the capacity to defend the interests of workers independently through collective bargaining.” Accordingly, the Committee requested the Government to take all necessary measures, including those of a legislative nature, “to step up the promotion of collective bargaining with trade union organizations within the meaning of the Convention” (CEACR observation concerning the application of Convention No. 98 by Costa Rica (2021)).

In **Greece**, Act No. 4024/2011 stipulates that, where there is no trade union in an enterprise, an association of persons may conclude a firm-level collective agreement. The CEACR expressed its concern over the fact that, “given the prevalence of small enterprises in the Greek labour market, the facilitation of association of persons, combined with the abolition of the favourability principle set out first in Act No. 3845/2010 and given concrete application in Act No. 4024/2011, would have a severely detrimental impact upon the foundation of collective bargaining in the country”. Although the Committee noted the Government’s indication that the favourability principle had been restored, it requested the Government “to indicate the steps taken to promote collective bargaining with trade unions at all levels, including by considering, in consultation with the social partners, the possibility of trade union sections being formed in small enterprises” (CEACR observation concerning the application of Convention No. 98 by Greece (2019)).

In **Romania**, the CEACR observed that, under Section 135(1)(a) of the Social Dialogue Act of 2011 (and subsequent amendments) in cases where a non representative union (according to section 51 of the Act, a union that does not have at least 50 per cent plus one of the workers of an enterprise) was not affiliated to a representative sectoral federation, the negotiation of a collective agreement *erga omnes* could be carried out exclusively by elected workers’ representatives, thus rendering obsolete the right of unions considered to be non-representative to negotiate on behalf of their own members. The Committee requested the Government to amend the relevant legislation “to ensure that if no union secures the absolute majority, collective bargaining rights should be granted to all the unions in the unit, at least on behalf of their own members” and that affiliation to a representative federation is not required in order to be able to negotiate at the enterprise level (CEACR observation concerning the application of Convention No. 98 by Romania (2019); CEACR observation concerning the application of Convention No. 98 by Romania (2021)).

Once the parties are sitting at the bargaining table, collective bargaining can proceed. In line with its voluntary nature, national laws rarely provide for detailed regulation of the negotiation process. However, interference by the State continues to be an issue in several countries, ranging from the use of compulsory arbitration to requirements to submit the agreement to the authorities for approval. Some broad guidelines may nevertheless be established to facilitate constructive negotiations. In a number of countries, legislation prescribes a general duty to bargain in good faith (for example, in Argentina, Cambodia, Canada, New Zealand, North Macedonia, Poland, Rwanda and the United Republic of Tanzania),<sup>16</sup>

while in others it provides specific obligations (for example, in China, Kenya, the Republic of Moldova, Sweden, Ukraine and the United Kingdom). In some cases, these obligations are set out in codes of good practice, agreed between the social partners. For example, in 2018, South Africa adopted the Code of Good Practice: Collective Bargaining, Industrial Action and Picketing, the aim being, inter alia, to promote orderly collective bargaining by strengthening trust, mutual understanding and constructive engagement. Various regulatory measures have either been adopted or are being considered with the intention of promoting collective bargaining (see box 2.8).

### ► Box 2.8 Examples of recent and ongoing regulatory developments

In **Spain**, the Government approved Royal Decree-Law No. 32/2021 on 28 December 2021, in line with a tripartite agreement reached between the Government and employers' and workers' organizations on 23 December 2021. The new legislation is aimed at, inter alia, providing greater stability in employment (for instance, by limiting the use of temporary contracts) and overhauling many of the provisions introduced in the 2012 labour reform, which limited the potential contribution of collective bargaining to the improvement of working conditions. The amendments include the restoration of "ultra-activity" (meaning that the validity of expired collective agreements is extended until a new agreement is negotiated), the principle of favourability in respect of wages set in sectoral agreements, and expansion of the application of sectoral agreements to cover workers employed by subcontractors (unless the outsourcing company has its own collective agreement).

In **Gabon**, the new Labour Code came into effect on 19 November 2021. The new legislation expressly provides for the coordination of collective agreements, whereby the most representative employers' and workers' organizations at the national level agree on principles to guide collective bargaining. Similarly, it includes provisions related to sectoral collective bargaining.

In **Malaysia**, the amended Industrial Relations Act that entered into force on 1 January 2021 has, inter alia, strengthened provisions related to union recognition for the purpose of collective bargaining, introduced new provisions for determining the sole bargaining agent and streamlined procedures for the resolution of disputes involving allegations of anti-union discrimination.

In the **United States of America**, the proposed Protecting the Right to Organize Act<sup>1</sup> aims to expand protections related to employees' rights to organize and collectively bargain. While most measures have to do with the right to organize (for example, broadening the scope of individuals covered by the Fair Labor Standards Act), it also expands unfair labour practices to include prohibitions against the replacement of, or discrimination against, workers who participate in strikes, and addresses the procedures for union representation elections (by enabling employees to vote in such elections remotely by telephone or through the internet).

In **New Zealand**, the Government has recently proposed a Fair Pay Agreement system (May 2021). This new mechanism for bargaining would set binding minimum terms and conditions across an occupation or industry. If 10 per cent of a workforce or 1,000 workers agree, a new Fair Pay Agreement can be enacted (Doorey 2021). The social partners have expressed differing views on the proposed system.<sup>2</sup>

1 The bill was approved by the House of Representatives in March 2021 and is pending approval by the Senate.

2 For the views expressed by employers' organizations, see IOE and WEC (2021a); for those expressed by workers' organizations, see NZCTU (2019).

**Public authorities may also provide dispute prevention and resolution services to support the parties to engage in constructive and informed negotiations.** For example, in Bulgaria, the National Institute for Conciliation and Arbitration facilitates the voluntary settlement of collective labour disputes between employers and workers. In South Africa, the Commission for Conciliation, Mediation and Arbitration provides voluntary facilitation services and mediates disputes. Australia's Fair Work Commission, a quasi-judicial body, performs similar functions.

For collective bargaining to be meaningful, the parties need to have access to information (see boxes 2.1 and 2.9). **Public authorities can foster informed negotiations by making relevant and reliable information available** (such as macro-economic and labour market information, or information on sectoral trends) and encouraging the negotiating parties to share information (such as enterprise-level information on business structure, finances, and terms and conditions of employment).

## 2.2.3 The application of collective agreements

A collective agreement – as an outcome of a negotiation process – establishes joint rules in respect of working conditions, terms of employment and employment relations. **The application of these agreements can contribute to the inclusive and effective governance of work** in three important ways. The first is through the ordering of various sources of regulation including, in multi-tiered bargaining systems, through the regulation of opening clauses, deviations and hardship clauses. The second is through the application of an agreement concluded by sufficiently representative parties to all workers in a bargaining unit or sector. The third is by providing regulatory certainty with regard to conditions of work after an agreement has expired.

Closely linked to the function of collective agreements as a source of regulation is the principle of favourability. As noted in box 2.1, in many national legal systems, this principle is acknowledged in relation to (a) the law; (b) individual employment contracts; and (c) a collective agreement (or

### ► Box 2.9 Information for constructive, informed and meaningful negotiations

Access to credible information, with appropriate measures to protect confidentiality, helps bargaining parties to engage in informed negotiations, supports bargaining in good faith and can reinforce the link between wages and productivity growth.

The most frequent indicator referred to during collective bargaining is inflation as measured by the consumer price index. Other macroeconomic information frequently consulted includes economic growth indicators (such as gross domestic product), labour market indicators such as employment and unemployment, and the wage and labour costs of neighbouring countries or key competitors (as is regularly done in Belgium and Sweden, for example). Some bargaining parties consider developments in orders, capacity utilization for a sector, average earnings and labour productivity (for example, in Germany and the Republic of Korea). Wage increases in relevant enterprises or sectors are frequently taken note of for benchmarking purposes. In some low-income countries, bargaining parties may also discuss the cost of living, based on the cost of a consumption basket plus other basic costs (for example, in Côte d'Ivoire and Senegal). At the enterprise level, bargaining parties tend to include indicators of enterprise performance and productivity in the discussions, as well as the financial situation of the company.

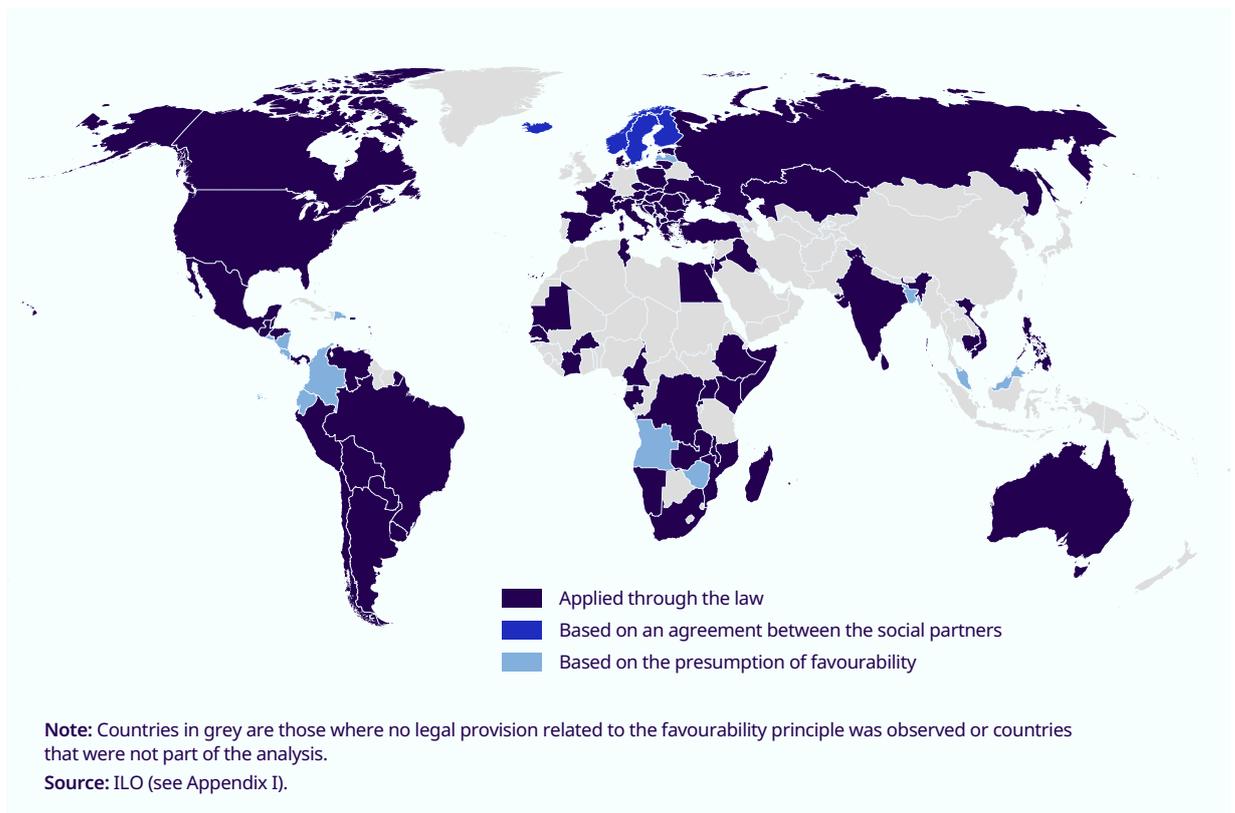
To facilitate consensus, public authorities and/or tripartite institutions in some countries may be tasked with providing reliable information. For example, the Swedish National Mediation Office provides public statistics on labour market indicators, wages and collective agreements. The tripartite Japan Productivity Center publishes data on indicators of labour productivity for mining and major industrial sectors on a monthly, quarterly and annual basis. In addition, national statistical offices, such as the National Institute of Statistics in Chile, are frequently consulted by bargaining parties.

agreements) at a higher level. According to the principle of favourability in relation to the law, standards established at higher levels of the hierarchy of sources of labour law, such as a country's constitution or national laws, cannot be affected by those set at lower levels, such as collective agreements. When the lower source contains standards that are more favourable to workers, it should have priority over the higher source. In such a case, the higher source can be considered to provide a "floor" for regulations established by a lower source to build upon (Jacobs 2014). The principle of favourability is established in many regulatory frameworks and provides both regulatory ordering and certainty in respect of labour protection (see figure 2.2).

Looking at countries for which data are available, it is clear that most of these establish favourability in relation to the law. Thus, out of the 125 countries studied, 91 either acknowledge the principle

explicitly or imply its validity through general principles of law. The main exceptions are countries in Europe with voluntaristic systems of industrial relations, where application of the principle is determined by the parties (Denmark, Finland, Iceland, Norway and Sweden). There are also countries where favourability in relation to the law is not regulated (for example, Botswana, China, Cuba, Cyprus, Ghana, Indonesia, Ireland, Japan, New Zealand, Nigeria, the Republic of Korea and the United Kingdom); however, the absence of the principle in legislation or in an agreement does not preclude its use in practice, including through judicial practice. In a number of countries the principle of favourability can be derived from other principles of the law, as is often the case in Latin American countries, where the principle of *in dubio pro operario*<sup>17</sup> is widely applied (for example, Colombia, Costa Rica, Dominican Republic, El Salvador and Nicaragua).

► Figure 2.2 Favourability principle in relation to the law around the world



<sup>17</sup> The principle, commonly applied by Latin American labour judges and scholars, is a core element of the principle of protection and expresses the following idea: "when in doubt, decide in favour of the worker". For more information, see Gamonal C. and Rosado Marzán (2019); Plá Rodríguez (1978).

In countries where derogations from protective provisions are permitted, the law explicitly regulates the conditions under which this is possible and/or the norms that may be subject to derogation (for example, Argentina, Australia, Austria, Brazil, Estonia, Finland, Germany, Hungary, Japan, the Netherlands, Slovenia and South Africa). As noted in box 2.1, such derogations should be targeted (that is, cover specific aspects of conditions of work) and applied only in a circumscribed and reasoned manner (see also box 2.10). In Croatia, for instance, the Labour Act, 2014 (amended in 2017 and 2019) stipulates in article 7(3) that the most favourable provisions shall apply to an employee unless otherwise specified by the Act or another law. In Hungary, the Labour Code provides for derogations through collective agreements, although such derogations are limited to specific provisions outlined at the end of each chapter of the Code.

Additional complexities arise in countries where bargaining takes place at multiple levels. As noted in box 2.1, the determination of the level of bargaining is a matter for the bargaining parties, and in those countries, the parties – in line with the national legal framework – may seek to ensure that there is articulation and vertical coordination between the different levels (ILO 2012, para. 223). One way in which such articulation and ordering between levels can take place is through the application of a favourability principle in relation to a collective agreement (or agreements) at a higher

level. In this case, the principle provides the procedural means for linking standards across the levels concerned. In 56 out of the 125 countries studied, the principle of favourability regulates the relationship between agreements reached at different levels. In 41 countries, this principle is applied through the law, while in 8 countries (namely Cyprus, Denmark, Finland, Iceland, Ireland, Lithuania, Norway and Sweden) it is a matter for the bargaining parties. Most of the countries where the law does not provide for the principle of favourability are countries where collective bargaining takes place at the enterprise level.

Apart from invoking the principle of favourability to establish the hierarchy of norms in collective agreements reached at different levels, some systems permit lower-level collective agreements to deviate from or modify norms established in higher-level agreements. This may be achieved through various adaptability clauses, such as opening, derogation, hardship or opt-out clauses (see box 2.11). Among countries for which data are available, 12 have legislation that regulates (that is, allows) the use of opening and derogation clauses in higher-level collective agreements (Austria, Belgium, Côte d'Ivoire, France, Germany, Italy, Lithuania, Portugal, Spain, Togo, South Africa and Uruguay). Legislation in 15 countries regulates hardship or opt-out clauses (Argentina, Bulgaria, France, Ireland, Japan, Lithuania, North Macedonia, Paraguay, the Philippines, Romania, Serbia, Singapore, Slovenia, Spain and Viet Nam).

► **Box 2.10 Recent comments by the CEACR concerning the application of Convention No. 98 by Brazil**

In **Brazil**, under Act No. 13467, adopted on 13 November 2017, the new article 611-A of the Consolidation of Labour Laws (*Consolidação das Leis do Trabalho*, CLT) introduced the general principle that collective agreements and accords prevail over the legislation. It is therefore possible through collective bargaining to derogate from the protective provisions of the legislation, with the sole exception being the constitutional rights referred to in article 611-B of the CLT (that section lists 30 rights which may not be set aside through collective agreements or accords). In this regard, the CEACR noted that the general objective of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Collective Bargaining Convention, 1981 (No. 154), and the Labour Relations (Public Service) Convention, 1978 (No. 151), is to promote collective bargaining with a view to agreeing on terms and conditions of employment that are more favourable than those already established by law (ILO 2013a, para. 298). The Committee also noted that the definition of collective bargaining as a process intended to improve the protection of workers provided for by law had been recognized in the preparatory work for Convention No. 154, an instrument that had the objective, as set out in its preambular paragraphs, of contributing to the achievement of the objectives of Convention No. 98. The CEACR requested the Government, in consultation with the representative social partners, to take the necessary measures for the revision of articles 611-A and 611-B of the CLT so as to specify more precisely the situations in which clauses derogating from the legislation may be negotiated collectively, and also the scope of such clauses (CEACR observation concerning the application of Convention No. 98 by Brazil (2018)).

► **Box 2.11 Adaptability clauses in interprofessional, sectoral and territorial collective agreements**

**Opening clauses** allow for variation in the implementation of particular clauses in agreements at other levels or delegate the regulation of particular issues to the enterprise level. These clauses typically provide scope for further negotiation at the enterprise and plant level, such as variation in the phasing of wage adjustments and implementation of variable (productivity-related) wage supplements.

**Derogation clauses** allow for collectively negotiated deviations from agreed provisions and specify the conditions under which collective agreements at lower levels may deviate from the higher-level agreement; they also specify the subjects – for example deviations with regard to working time.

**Hardship or opt-out clauses** specify a set of predefined conditions under which enterprises experiencing economic hardship may opt out of a collective agreement, or some of its clauses, for a specific period of time.

Sources: ILO, based on Visser (2013); Marginson and Welz (2015); Pedersini and Leonardi (2018).

When it comes to the application of collective agreements, the basic principles of contract law imply that a collective agreement between an employer or an employers' organization and a workers' organization or organizations should be binding on the signatory parties and their members. However, many industrial relations systems provide for the *erga omnes* ("towards everyone") applicability of collective agreements and/or for the extension of collective agreements to non-parties.

The inclusion of an *erga omnes* clause renders a collective agreement applicable to *all workers* in an enterprise (and/or sector), regardless of whether the workers are members of the trade union that signed the agreement. In this way, the minimum terms and conditions laid down by a collective agreement can be applied beyond the personal scope of the agreement. One of the reasons for adopting *erga omnes* applicability is to prevent rivalry between co-workers. For employers, it may be seen as a way of removing an incentive for workers to join a trade union; conversely, it may be welcomed by trade unions because there is no longer an incentive for employers to hire non-unionized workers at lower wages,

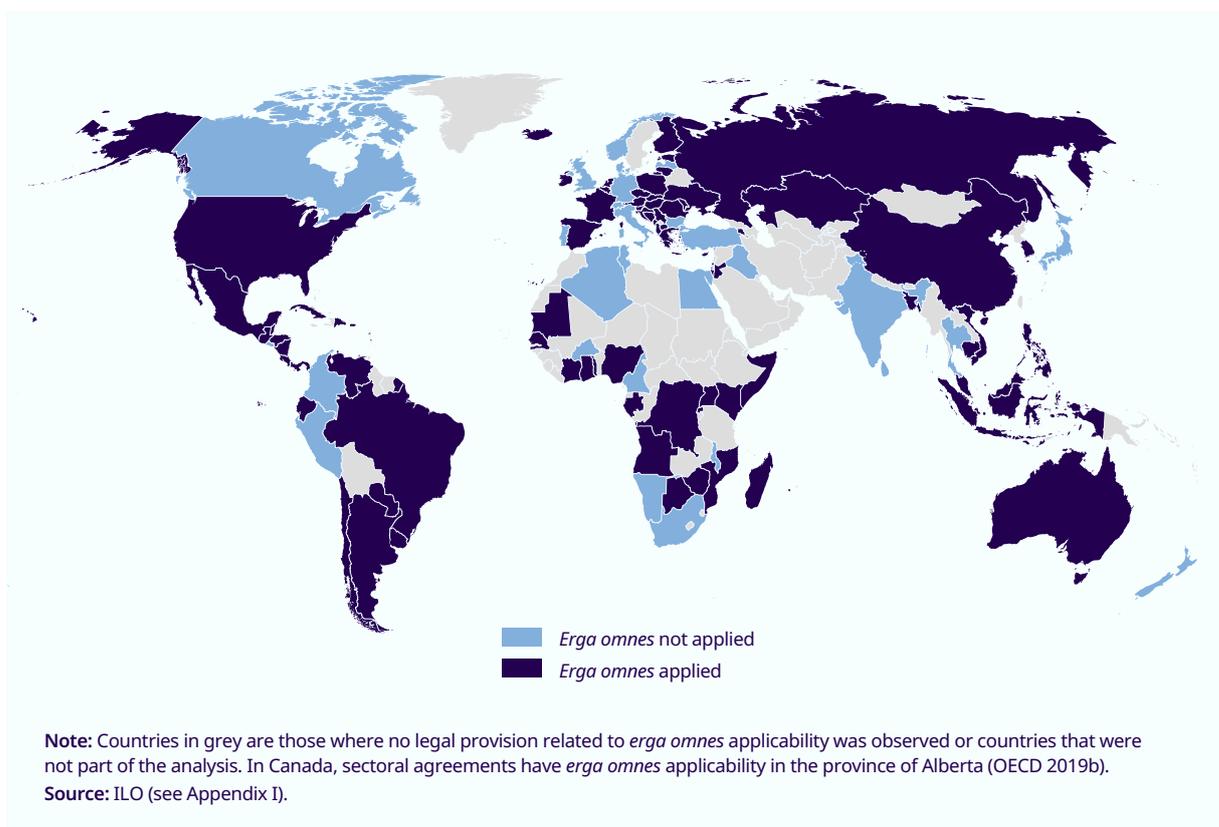
which may undermine existing agreements. *Erga omnes* applicability can contribute to the inclusive governance of work by ensuring coverage of non-union workers at companies, who may or may not share certain characteristics with unionized co-workers. These unorganized workers are likely to be younger, may work part-time and may be employed under temporary contracts (Hayter and Visser 2021, 4–5).

Out of the 125 countries for which data are available, *erga omnes* applicability is regulated by legislation in 80 countries (see figure 2.3). In 75 countries, collective agreements automatically have *erga omnes* effect. In 24 countries, *erga omnes* is applicable only at the enterprise level, and in 5 only at the sectoral level. In the remaining countries, either it is applicable at both levels or the level is not specified in the law. However, there are 5 countries where *erga omnes* applicability is not automatic but based on the fulfilment of specific conditions.

Legal extension mechanisms (or functional equivalents) are acts of public policy that depend on the decision of a public authority (see box 2.12). They can play an important role in broadening the applicability of a collective agreement to all enterprises in a designated sector or territory, under certain conditions, irrespective of whether they are members of the employers' organization that signed the agreement. By establishing a floor or a common standard for a specific industry or occupation, they can contribute to inclusive labour protection (Hayter and Visser 2021, 4). For example, Norway introduced extension provisions in 1993; the scope of extension has since been expanded to include workers posted by foreign-owned companies (for example, in construction and shipyards) (ILO 2016).

Several studies have highlighted the importance of statutory extension in terms of promoting collective bargaining, supporting sectoral bargaining institutions, and maintaining high levels of coverage of enterprises and workers by collective agreements (Traxler, Blaschke and Kittel 2001; Schulten 2012; Schulten, Eldring and Naumann 2015; Hayter and Visser 2018, 2021). This is because extension mechanisms not only directly affect a (relatively small) share of employees working for non-parties to the agreement: they also stabilize collective bargaining by eliminating incentives for employers to leave their associations. They also shore up the various public goods provided by sectoral bargaining institutions, such as training funds and pension funds (Hayter and Visser 2018).

► Figure 2.3 Applicability of *erga omnes* to collective agreements around the world



Out of the 125 countries for which data are available, 71 provide for the extension of collective agreements. There are 3 countries where extension is explicitly not applied and 48 countries where no relevant provision was found in the legislation. However, it should be noted that there are a number of countries where extension is provided for, but not applied in practice (for example, Lithuania, Poland and Turkey; see Hayter and Visser 2021). In countries such as Denmark and Sweden, though there is no legal provision for extension, trade unions may conclude “adhesion” agreements with employers not covered by collective agreements (Bruun 2018).

The contribution of extension mechanisms to the inclusive governance of work depends on the degree to which the extension of an agreement is the result of an executive decision (that is, not automatic) based on the fulfilment of certain conditions, such as the agreement having been signed by sufficiently representative parties, or objections by non-parties and public interest criteria having been given due consideration. The need to fulfil these conditions ensures that public authorities carefully take into account the risks that extension may entail for the financial sustainability of small businesses and for employment (AdC 2019; Hijzen, Martins and Parlevliet 2017). For example, in South Africa, public authorities

are expected to consider the sustainability of social protection (for example, pension funds, healthcare benefits, sick pay and unemployment and training funds) as well as the representation of small business interests on the bargaining council (see below and Chapter 4) when extending a collective agreement (Godfrey 2018). Argentina, France, Germany, the Netherlands, Portugal and Switzerland are among the countries that apply public interest criteria as a matter of course, such as the potential effects on employment and the sustainability of social protection and training funds (see table 2.1 and box 2.12).

A number of extension mechanisms take into consideration the heterogeneity of enterprises and their ability to adapt to rapidly deteriorating market conditions by including procedures for exemption from a collective agreement that has been extended to them by a public authority. These mechanisms may take the form of blanket exemptions for enterprises of a particular size, or procedures for exemption from all or part of the extended agreement depending on certain criteria. In Czechia, enterprises with up to 20 employees are exempt from extended agreements. In Argentina, the law enables small and medium-sized enterprises (SMEs) negotiating with a union to suspend the applicability of clauses on the length of holidays and payment of

► **Box 2.12 Conditions to be fulfilled for the extension of collective agreements**

The Collective Agreements Recommendation, 1951 (No. 91), advises that measures, to be determined by national laws or regulations, be taken to extend the application of all or certain provisions of collective agreements. Extensions, however, should be subject to a number of conditions, among which Paragraph 5(2) of the Recommendation specifies the following: “(a) that the collective agreement already covers a number of the employers and workers concerned which is, in the opinion of the competent authority, sufficiently representative; (b) that, as a general rule, the request for extension of the agreement shall be made by one or more organisations of workers or employers who are parties to the agreement; (c) that, prior to the extension of the agreement, the employers and workers to whom the agreement would be made applicable by its extension should be given an opportunity to submit their observations”.

While Recommendation No. 91 points out that the collective agreement should be “sufficiently representative”, it makes no mention of a specific threshold, since the quorum should be set in accordance with the conditions in each country.

bonuses. In South Africa, where exemption has become an important tool especially for SMEs, the Minister of Employment and Labour must ensure that bargaining councils have an effective procedure in place to deal with exemptions, including a provision for an independent body to hear appeals where exemptions are refused. Enterprises in the Netherlands in general must have “compelling reasons” to qualify for exemption: for example, if they are able to demonstrate that their product and labour markets are not typical of the sector as a whole (Hayter and Visser 2021, 15).

Finally, procedures and policies that influence the duration of collective bargaining agreements and their validity beyond expiry (known as “ultra-activity” or “after-effect”) not only influence the approach of the parties during the renegotiation of such agreements, but also have implications for the effectiveness of the labour protection afforded by collective agreements and their role in the governance of work. In terms of duration, collective bargaining agreements may be

open-ended or valid for a specific length of time. They often contain renewal provisions and may also include provisions on termination (that is, non-renewal after expiry) after prior notice. Legislation may determine the duration and applicability beyond the date of expiry (ultra-activity) or leave this for the parties to determine.

From the perspective of employers, such provisions help to maintain social peace and stability in situations where the bargaining parties are finding it difficult to renew their collective agreement. From the perspective of trade unions, laws dealing with the validity of agreements provide continuity and protect workers, should employers not wish to renew the agreement or seek to lower standards (Visser 2016, 9). A number of industrial relations systems have traditionally supported collective bargaining continuity either by ensuring that collective agreements do not expire until they are renewed or by maintaining the validity of recently expired agreements beyond their termination date.

► **Table 2.1 Conditions to be fulfilled for the extension of collective agreements**

Condition		Country examples
Request by the parties to the agreement		Argentina, Austria, Croatia, France, Ghana, Netherlands, Portugal, Republic of Korea, Slovenia, South Africa, Uruguay
Act of public policy (by the government, a public agency or a court)	Sufficiently representative	Austria, Croatia, Estonia, Finland, France, Greece, Hungary, Latvia, Luxembourg, Netherlands, Slovakia, South Africa, Spain, Switzerland, Uruguay
	Public interest test	Argentina, Australia, France, Germany, Ireland, Norway, Portugal, Slovakia, South Africa, Switzerland, Uruguay
	Non-parties have an opportunity to submit observations	Croatia, Germany, Ghana, Luxembourg, Norway, Switzerland; and in some other countries where extension is rarely used: Israel, Japan, Republic of Korea, Russian Federation

Sources: Hayter and Visser (2018, 2021).

Out of 125 countries, 71 regulate ultra-activity. Most of them provide for ultra-activity (of the complete agreement or of some provisions only) until a new agreement has been concluded. Some countries extend the validity of collective agreements for a period equal to the agreed duration or another specific period ranging from 90 days to one year. In other cases, parties may agree to a different period (for example, in Colombia and the Republic of Korea). Countries may also

stipulate that an agreement of definite duration should acquire indefinite duration if not renewed. Table 2.2 shows examples of countries and the regulatory approaches adopted. In countries where ultra-activity is not statutorily regulated, parties to collective agreements may choose to maintain the validity of the complete agreement or of only some of its provisions after expiration (for example, South Africa and Sweden).<sup>18</sup>

► **Table 2.2 Regulation of ultra-activity of collective agreements in selected countries**

Regulatory approach	Country
Until the conclusion of a new agreement	Algeria, Angola, Argentina, Australia, Austria, Burkina Faso, Cuba, Denmark, Dominican Republic, El Salvador, France, Honduras, Iceland, Latvia, Malta, Montenegro, North Macedonia, Peru, Russian Federation, Senegal, United States, Venezuela (Bolivarian Republic of), Zimbabwe
Ultra-activity equal to duration of original agreement	Costa Rica, Guatemala, Mexico, Somalia
Specific period	Bangladesh, Bosnia and Herzegovina, Colombia, Croatia, Fiji, Indonesia, Jordan, Mauritania, New Zealand, Republic of Korea, Serbia, Thailand, Viet Nam
Definite duration of ultra-activity becomes indefinite in case of non-renewal	Côte D'Ivoire, Democratic Republic of the Congo, Estonia, Gabon

**Note:** The following countries could not be classified under any of the categories shown above: Cambodia, Canada, Czechia, Egypt, Germany, Greece, India, Iraq, Ireland, Italy, Lebanon, Morocco, Mozambique, Nepal, Nicaragua, Norway, Panama, Romania, Rwanda, Slovakia, Slovenia, Spain, Togo, Tunisia, Turkey, Ukraine, Uruguay.

**Source:** ILO (see Appendix I).

<sup>18</sup> This section does not address the situation where national law allows for specific provisions of a collective agreement to be applied in individual employment agreements after expiration of the collective agreement.

# 2.3

## Coverage by collective agreements

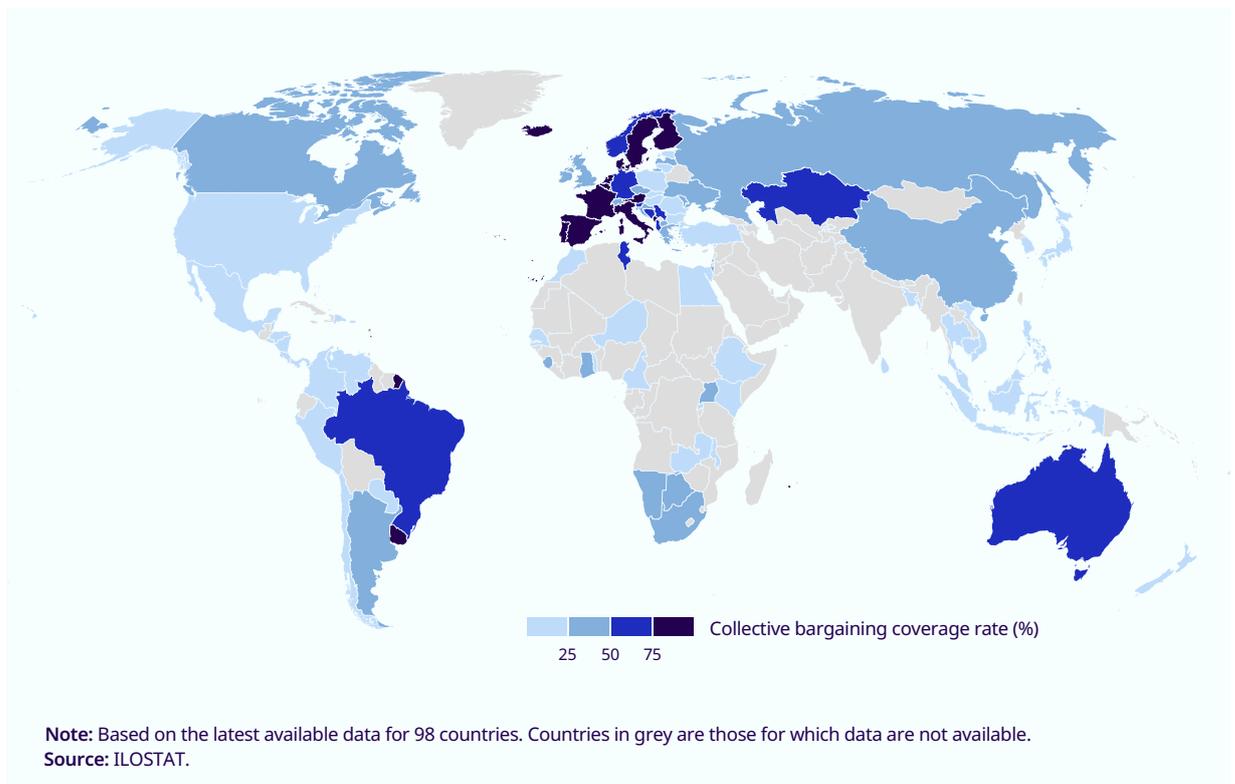
The collective bargaining coverage rate is one measure of the regulatory coverage of collective agreements. It refers to the share of employees who have their pay and working conditions determined by one or more collective agreements. High coverage (above 75 per cent) is often an indication that parties co-regulate terms and conditions of employment. Low coverage (below 25 per cent) is an indication that regulation by collective agreements is mainly limited to enterprises covered

by such agreements. Statutory regulation plays a fundamental role in labour governance in countries with low coverage.

Drawing on data for **98 countries**, the ILO estimates that across these countries the **employees-weighted average coverage rate is 35.2 per cent**. The coverage by collective agreements is high (above 75 per cent) in many European countries and in Uruguay, while in about half of the countries for which data are available, regulatory coverage is low (below 25 per cent) (see figure 2.4).

Although relevant data are now available for more than half of the ILO Member States, such information is not available for a number of countries in Africa and Asia. This scarcity can be explained in part by the relative underdevelopment of collective labour relations institutions in labour markets and the limited capacity for collecting related data in those countries. In contrast to the rich existing literature on industrial relations in developed economies, the institutionalization of industrial relations in emerging and developing economies has accordingly been studied far less (Hayter and Lee 2018).

► Figure 2.4 Collective bargaining coverage around the world (percentage)

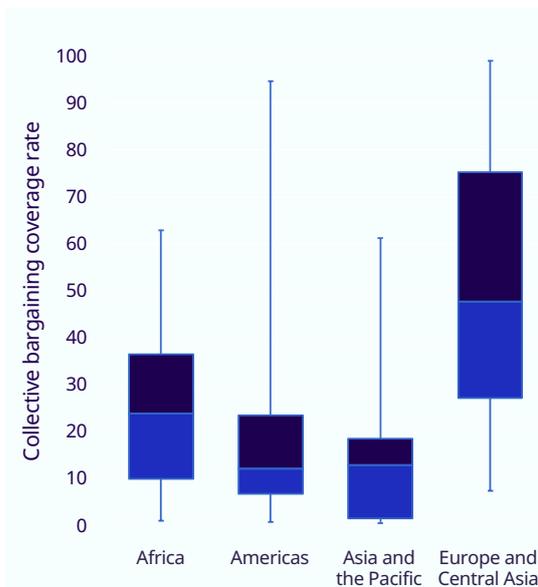


Among the 98 countries for which data are available, there are significant variations in collective bargaining coverage rates, as demonstrated by figure 2.4. In the first group there are 48 countries with low coverage, that is, a rate below 25 per cent (in Malaysia, Panama and Paraguay fewer than 1 per cent of employees are covered by collective agreements). An additional 25 countries have moderate coverage (between 25 and 50 per cent). Eleven countries have medium coverage (between 50 and 75 per cent). Finally, 14 countries have high coverage (above 75 per cent). This last group consists solely of high-income countries, among them Austria, Italy and France, where close to 100 per cent of employees are covered by collective agreements.

As for intraregional dispersion, figure 2.5 shows that collective bargaining coverage rates vary more widely in Europe and Central Asia than in other regions, reflecting in part the greater differences in bargaining institutions and structures in the countries of that region. At one end of the spectrum is Turkey, with a coverage rate of 7 per cent, and at the other end Italy, with a rate of 99 per cent. Nevertheless, the median coverage rate (47.7 per cent) is higher than in all other regions.

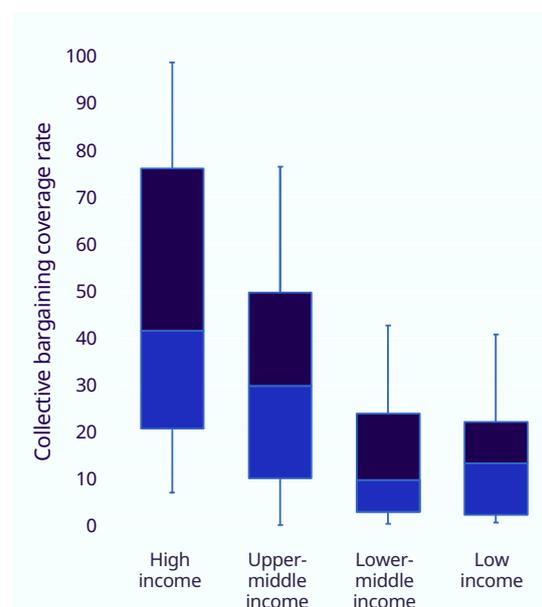
The median for the Africa region (23.8 per cent) appears to be higher than that of the Americas (12.1 per cent) and Asia and the Pacific (12.8 per cent). This can be ascribed to the fact that collective bargaining coverage rates are calculated as a share of employees, which in developing economies with high levels of informality tends to lead to an overestimation of regulatory coverage by collective agreements. Hence, a coverage rate of 38 per cent for a country like Ghana, where the share of employees in total employment is only 34 per cent, may give a distorted idea of the significance of collective agreements in the governance of work in that country. In Asia and the Pacific, coverage rates are less variable across countries, reflecting perhaps greater similarity in the role played by collective agreements in the governance of work in that region. Nevertheless, there is a considerable contrast between Malaysia, where 0.4 per cent of employees are covered by collective agreements, and Australia, where 61 per cent are covered. The Americas exhibit the greatest dispersion in collective bargaining coverage rates, ranging from 0.7 per cent in Paraguay to 94.7 per cent in Uruguay. The absence of data for the Arab States precludes any analysis for that region.

► **Figure 2.5 Dispersion of collective bargaining coverage rates, by region (percentage)**



Note: Based on the latest available data for 98 countries.

► **Figure 2.6 Dispersion of collective bargaining coverage rates, by income level (percentage)**



Note: Based on the latest available data for 98 countries.

Figure 2.6 shows the dispersion of collective bargaining coverage within country income groups. There is clearly a relationship between coverage by collective agreements and the level of development. High-income countries have the highest median coverage rate (42 per cent) and the widest interquartile range (between 21 and 77 per cent). The median coverage rate is 30 per cent for upper-middle-income countries and around 10 per cent for lower-middle- and low-income countries. The distributions are less skewed than those based on regional data; nevertheless, the greatest difference between the lowest and highest coverage rates is observed among the high-income countries (8 per cent and 99 per cent being the minimum and maximum values in that group). Thus, while the income level of a country appears to be an important predictor of the extent of regulatory coverage by collective agreements (in terms of the median), such an approach does not account for the differences between countries (Grimshaw and Hayter 2020). To do that, it is necessary to take a closer look at different industrial relations traditions and institutions from a comparative perspective. These differences are likely to be far more significant in explaining the contribution of such regulatory coverage to the governance of work.

**One of the factors that determines the collective bargaining coverage rate is trade union density rate.**<sup>19</sup> Analysis of the most recent collective bargaining coverage and trade union density rates for 87 countries in our sample suggests that the two rates tend to move together (with a correlation coefficient of 0.7). Collective agreements cover more employees, the more these are unionized. There are exceptions, such as France, where the coverage rate is high (98 per cent), yet trade union density is only 8.8 per cent. Other examples are Uruguay (94.6 per cent versus 35.9 per cent, respectively), Spain (80.1 per cent versus 12.9 per cent) and Austria (98 per cent versus 26 per cent), where compulsory membership of the national employers' organization accounts for the high coverage. Overall, in 60 countries, coverage rates exceed union density rates. This may be explained, inter alia, by the *erga omnes* applicability of collective

agreements, the extension of such agreements and voluntary accession to them. In 27 countries, the opposite trend can be observed. For instance, in Panama, collective agreements cover only 1.9 per cent of employees, but the proportion of employees who are members of trade unions is higher, namely 24.5 per cent. This pattern also holds for Bangladesh, where the coverage rate is only 1.5 per cent while trade union density reaches almost 12 per cent, and for Malaysia, which has 0.4 per cent of employees covered by collective agreements and a higher trade union density rate of 8.7 per cent. This may be due to the capacity of trade unions, trade unions prioritizing activities other than collective bargaining (such as political lobbying or the administration of social security), situations where employers do not see any benefit in concluding collective agreements, and highly adversarial industrial relations climates.

**A second factor which influences coverage rates is whether workers in the public sector are able to engage in collective bargaining.** All 13 countries with high coverage rates – that is, those countries where more than 75 per cent of employees are covered by collective agreements – guarantee the right to collective bargaining to public servants. Conversely, around one third of the countries (14 countries) with a low coverage rate (that is, below 25 per cent) exclude or limit the collective bargaining rights of public servants. Only three countries with coverage rates above 25 per cent restrict the right to collective bargaining for public servants (see figure 2.7). The significance of collective bargaining rights for public servants in shaping the regulatory coverage of collective agreements is demonstrated by the case of Colombia, where the establishment of collective bargaining mechanisms in the public sector resulted in a major increase in the number of workers covered by collective agreements and benefited over a million public servants.<sup>20</sup> The overall coverage rate in the country thus increased from 0.9 per cent in 2012 to 10.7 per cent in 2013.<sup>21</sup>

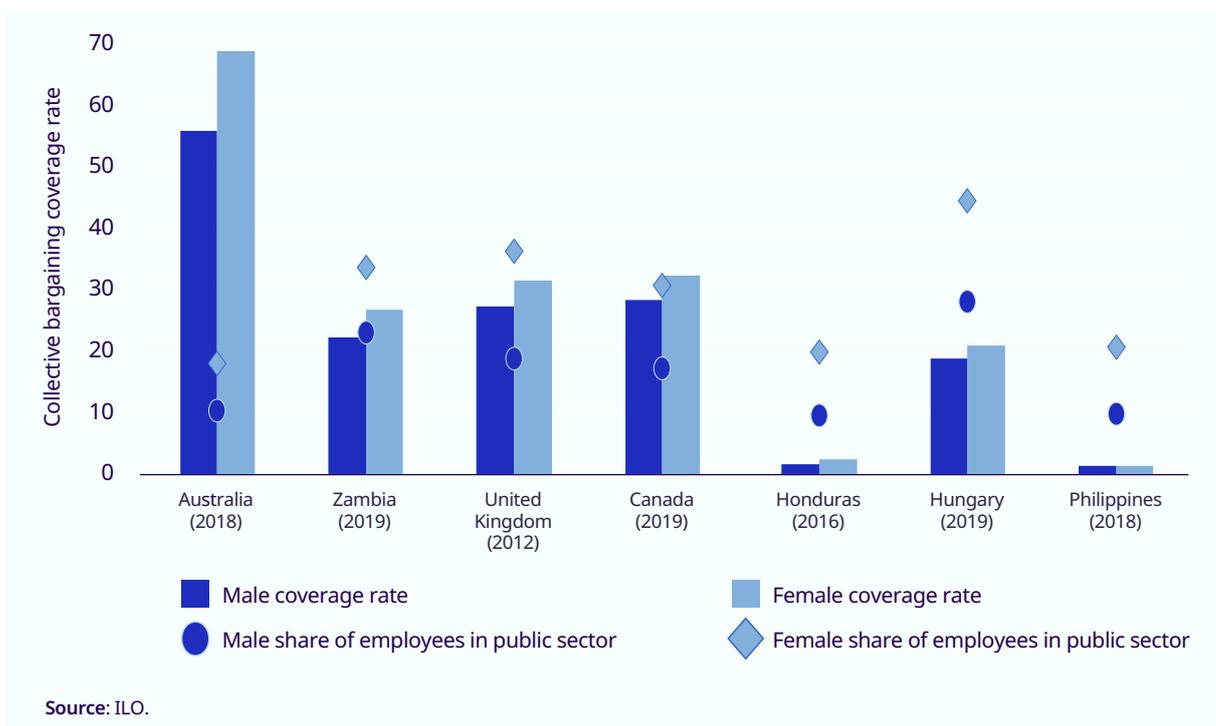
The degree to which workers in the public sector can bargain also influences the proportion of women covered by collective agreements. While access to sex-disaggregated statistics remains

19 The trade union density rate reflects, at a more disaggregated level, the structure of the economy and unionization patterns across sectors.

20 CEACR observation concerning the application of Convention No. 98 by Colombia (2021).

21 Pursuant to Decree No. 1092 of 2012, the Government of Colombia and various organizations of workers employed by the State reached an agreement on a unified set of demands relating to government service which benefited more than 1,050,000 public employees (CEACR observation concerning the application of Convention No. 98 by Colombia (2014)). With the adoption of Decree No. 160 (2014), collective bargaining has been expanded to the public sector. The CEACR recently noted that “the three national trade union confederations [...] welcome the significant progress in collective bargaining in the public sector, which is due to the existence of multilevel bargaining with an *erga omnes* effect at the national level. According to the trade union confederations, this mechanism should be extended to collective bargaining in the private sector.” (CEACR observation concerning the application of Convention No. 98 by Colombia (2021)).

► Figure 2.7 Collective bargaining coverage in the public sector, selected countries (percentage)



limited, the available data indicate that in countries where public servants enjoy the right to collective bargaining, the share of women covered by collective agreements is higher than that of men (figure 2.7).

**A third factor that determines the coverage rate is the institutional setting for collective bargaining.** Collective bargaining may be conducted on a multi-employer basis (in some instances with additional collective bargaining at the enterprise level), or by a single employer at the enterprise or establishment level. In some countries, no predominant institutional setting can be identified: bargaining is conducted on a single-employer basis at the enterprise level in some sectors and in multi-employer settings in others (for example, in the public sector).

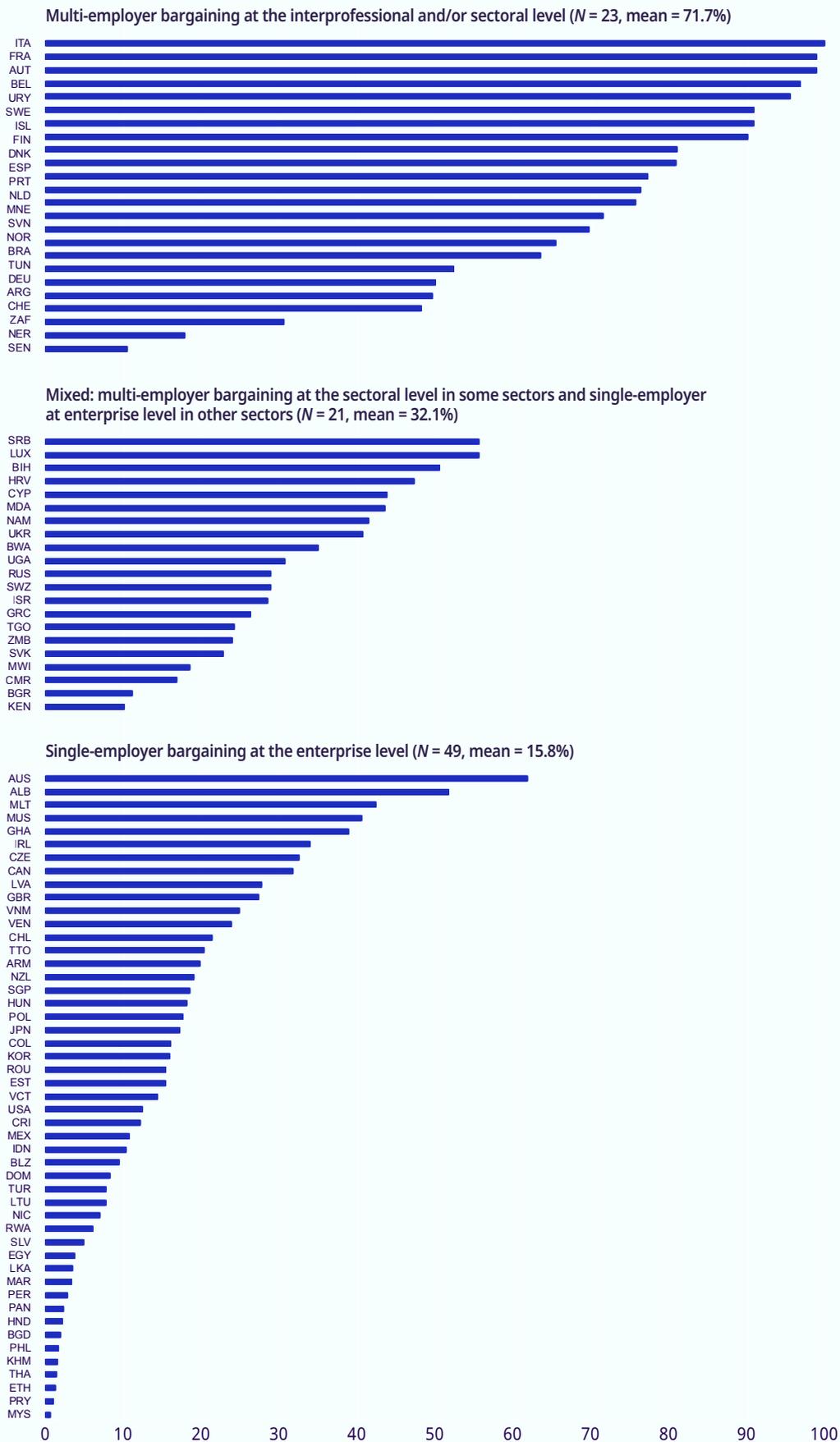
The institutional setting – that is, whether bargaining is carried out in a single- or multi-employer setting and the predominant level of collective bargaining – is an important predictor of collective bargaining coverage (figure 2.8). Multi-employer bargaining, typically carried out between employers’ organizations and trade unions at the interprofessional and sectoral levels, results in the highest rates of coverage by collective agreements, making this the most encompassing form of bargaining (with a mean of 71.7 per cent).<sup>22</sup> In addition to leading to higher regulatory coverage, there is also some evidence

that the collective agreements thus reached are more inclusive. Multi-employer bargaining has been found to be associated with a smaller number of self-employed and lower involuntary part-time employment (Marginson, Keune and Bohle 2014). The variation in coverage rates is significant, ranging from 10.1 per cent in Senegal (which signed an interprofessional agreement in 2019) to 98 or even 99 per cent in countries such as Austria, France and Italy. Multi-employer bargaining is more prevalent in Europe, although it also occurs in some countries in the Americas (for example, Argentina and Brazil) and Africa (such as Niger, Senegal and South Africa).

There are 21 countries where no single institutional setting is predominant – the regulatory coverage of collective agreements is mixed: multi-employer bargaining at the sectoral level in some sectors, and single-employer bargaining at the enterprise level in others. In these countries, the mean coverage rate of collective agreements is 32.1 per cent. In a number of the countries in this group, collective bargaining is conducted at the enterprise level in the private sector and at the sectoral level in the public sector (for example, Croatia and the Republic of Moldova). In countries with single-employer and enterprise-level bargaining settings, the coverage rate of collective agreements is low: the mean value is 15.8 per cent, and rates vary from 0.4 per cent in Malaysia to 61.2 per cent in Australia, where the

<sup>22</sup> Niger has not been included in the calculation of the mean, since the intersectoral agreement there dates back to 1972.

► Figure 2.8 Collective bargaining coverage, by institutional setting (percentage)



**Note:** Based on the latest available data for 93 countries (the level of bargaining is not available for five of the 98 countries for which data were collected). See Appendix II, table A2, for an explanation of the country codes.

**Source:** ILOSTAT.

system of awards<sup>23</sup> influences coverage. The countries with higher coverage rates in this group still have a few sectoral agreements, notably in the public sector (such as Canada, Ireland and the United Kingdom).

In about half of the countries studied, the principle of favourability governs the setting of standards across collective agreements at different levels (47 out of 98 countries for which coverage data are available).<sup>24</sup> In 34 of those countries, favourability is regulated by law, while in 8 others the application of that principle is left to the discretion of the bargaining parties. This is particularly true of countries with high bargaining coverage, which allows them to co-regulate the procedural aspects of their systems (four of these countries have a coverage rate above 75 per cent).

In line with the regulatory role that collective bargaining plays in different contexts (significant or minimal), legislation is more likely to allow for negotiated derogations and other deviations by lower-level collective agreements in countries with higher collective bargaining coverage. Derogations from the law are provided for in 15 out of 25 countries with medium to high rates of collective bargaining coverage, whereas only 4 out of 48 countries with low coverage allow for that option.

In Europe, collective bargaining systems have undergone significant decentralization over the past two decades, as a result of which local and enterprise-level bargaining have acquired greater prominence (Visser 2013; OECD 2019b; Eurofound 2020a; Marginson and Welz 2015). In countries where *disorganized decentralization* – to invoke the framework developed by Traxler (1995) – prevails, lower-level agreements replace higher-level ones (for example, Greece, Portugal, Romania and Spain) (Müller, Vandaele and Waddington 2019). In contrast, under *organized decentralization*, enterprise-level agreements may provide an additional layer within a multi-tiered bargaining system (for example, Austria, Belgium, Denmark, Finland, France, Ireland, Italy, the Netherlands, Slovenia, Sweden and Switzerland) (Müller, Vandaele and Waddington 2019). This allows for the setting of industry norms on the one hand, and the tailoring of collective agreements at the enterprise level on the other. Whereas

disorganized decentralization is associated with a decrease in the rate of coverage by collective agreements, regulatory coverage remains relatively stable under organized decentralization.

Organized decentralization involves a process of devolution and articulation of standard-setting within a vertically coordinated interprofessional or sectoral framework. This occurs, first, through application of the principle of favourability and, second, through joint regulation by the parties by means of opening and derogation clauses, and hardship or opt-out clauses (see box 2.10 above). Such decentralization can enhance the responsiveness and adaptability of regulations (Visser 2013). However, it can also lead to increasing segmentation and decollectivization of standard-setting (Pedersini and Leonardi 2018, 33). As is well established in the literature, the performance of multi-tiered bargaining systems and the adaptability they afford have more to do with the degree of vertical and horizontal coordination than with the level at which bargaining takes place (Traxler, Blaschke and Kittel 2001; OECD 2019b).

Opening and derogation clauses (from higher level collective agreements) only feature in multi-tiered bargaining systems. In half of the countries with high collective bargaining coverage, legislation provides for the use of such clauses; in the other countries with high coverage, these adaptability clauses are co-regulated in intersectoral or sectoral agreements.

**A fourth factor influencing the coverage of collective agreements is the manner in which they are applied to workers.** While in less than half of the countries studied (44) collective agreements are applicable only to the signatory parties, in two thirds of them (64 countries) *erga omnes* provisions exist in law. As noted in section 2.2.3, *erga omnes* applicability means that a collective agreement is applied to all workers in an enterprise or bargaining unit, regardless of whether they belong to the union that signed the agreement.<sup>25</sup> While it is difficult to mark out the precise effects on regulatory coverage, given the frequent practice of parties voluntarily applying agreements to all workers when there is no legislative requirement to do so, inclusive *erga omnes*

23 Since the early twentieth century, awards have been part of the Australian industrial relations system alongside enterprise-level collective bargaining. In their current form, “modern awards” are industry- or occupation-based and set out the minimum terms and conditions of employment on top of the National Employment Standards. They apply to all employees covered by the national workplace relations systems. More information is available on the website of the Fair Work Ombudsman, <https://www.fairwork.gov.au/tools-and-resources/fact-sheets/minimum-workplace-entitlements/modern-awards>.

24 This includes countries in which enterprise-level agreements predominate and there is no other level of bargaining. In two countries, the principle of favourability is not applied (Canada and Chile), while in 48 countries it could not be verified on the basis of examination of their laws.

25 In a few countries (such as Eswatini and Malta) there is an overlap between the two systems: *erga omnes* is applied at the enterprise level, but at the sectoral level the agreement is binding only on the signatory parties (or vice versa).

provisions exist in the majority of countries with high collective bargaining coverage (10 out of 14 countries). Almost half of these countries provide for *erga omnes* application at the enterprise and sectoral levels.

As noted previously, extension policies are also instrumental in fostering inclusive coverage of enterprises and workers by collective agreements. The term “extension” refers to a public policy that uses a collective agreement to set a common standard for all enterprises in a sector, territory and occupation. In contrast to *erga omnes* application, the extension of collective agreements is applied to enterprises, not workers. Extension policies also shore up the organizational density of employers’ organizations by providing additional incentives for enterprises to remain members, in particular the ability to influence the terms of agreements that will apply to them. Extension is therefore often used to sustain multi-employer bargaining institutions and to enhance the inclusiveness of agreements through both its direct and indirect effect on the regulatory coverage of collective agreements. It also facilitates the inclusive coverage of workers in diverse forms of work arrangements, those employed in small businesses, and migrant and posted workers, among others (Traxler, Blaschke and Kittel 2001; Hayter and Visser 2021; Schulten 2012; Schulten, Eldring and Naumann 2015; Hayter and Visser 2018).

Extension mechanisms exist in 10 of the 14 countries with high collective bargaining coverage rates (over 75 per cent). Exceptions are Denmark, Montenegro and Sweden. Among these, only Denmark and Sweden have maintained sectoral (multi-employer) bargaining and high bargaining coverage rates. This is due, inter alia, to high levels of organization among employers and trade

unions, the continuous involvement of unions and employers’ organizations in public policy, a supportive legal system, and the ability of the unions to convince non-organized employers to sign “adhesion” or “participation” agreements in which they commit themselves to pay the applicable rate set in the relevant collective agreement (Bruun 2018; Hayter and Visser 2018, 8). As for countries with coverage rates ranging from 50 to 75 per cent, 9 out of the 11 countries in this group provide for extension at the sectoral level. However, the actual use of extension provisions in this group is mixed: it is common in Croatia, Luxembourg and South Africa, but is rarely used in Bosnia and Herzegovina, Bulgaria, the Russian Federation and Slovakia.

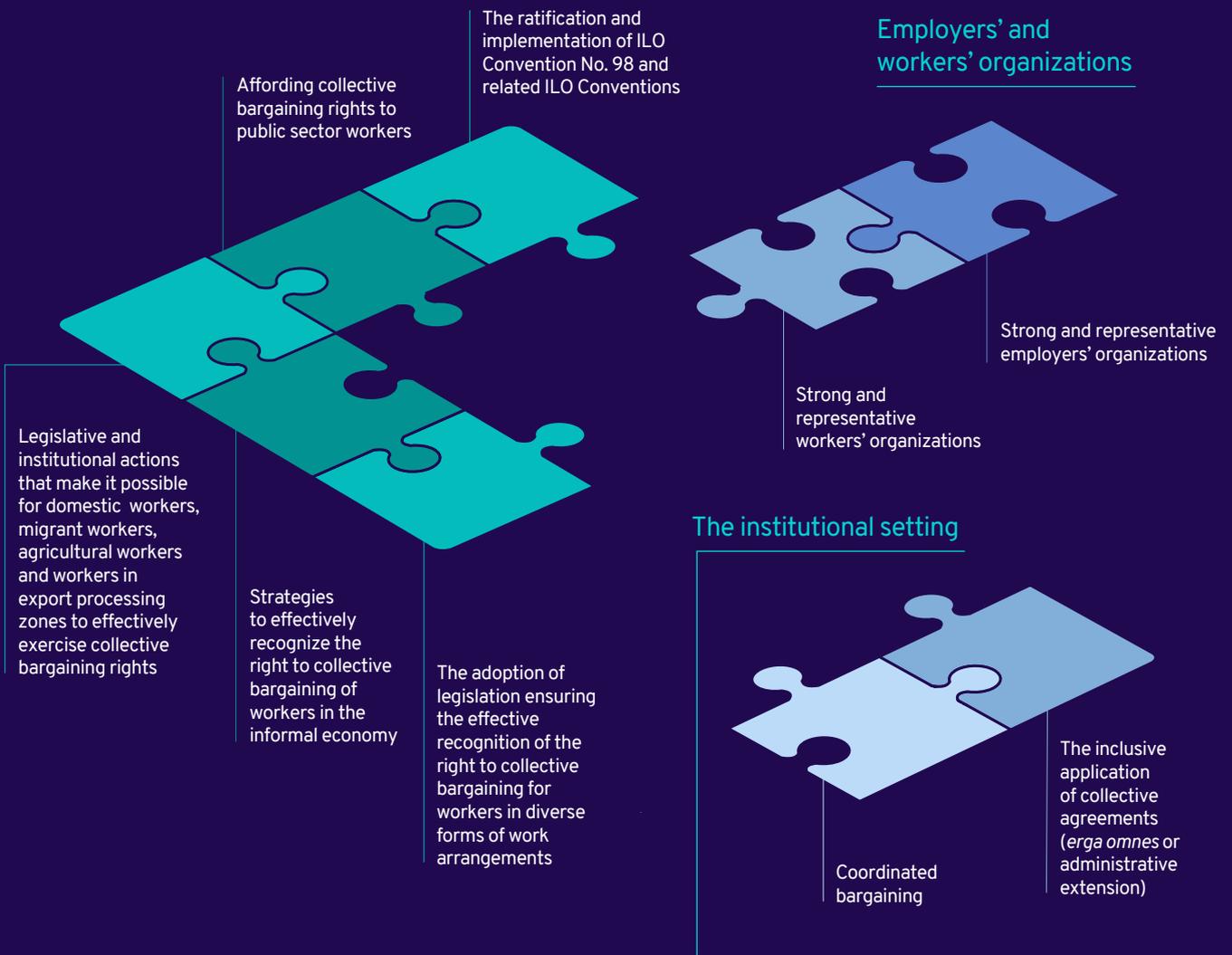
*In conclusion, in shaping the regulatory coverage of collective bargaining, the effective recognition of the right to collective bargaining for all workers and the promotion of the full development of collective bargaining are foundational. It is when the process involves trade unions representing a significant proportion of workers and takes place in multi-employer settings at the territorial, sectoral and/or interprofessional levels that collective bargaining achieves the broadest and most inclusive regulatory coverage. In some countries, the manner in which collective agreements are applied, whether through their extension or through erga omnes applicability, can contribute to the inclusive governance of work. Clauses invoking the principle of favourability and mechanisms that facilitate the responsiveness of collective agreements can enhance the contribution of collective bargaining to the effective governance of work, provided that these reflect the key principles set out in international labour standards.*

# Collective bargaining: Contributing to the inclusive governance of work

Over one third of workers have their working conditions and terms of employment governed by a collective agreement\*

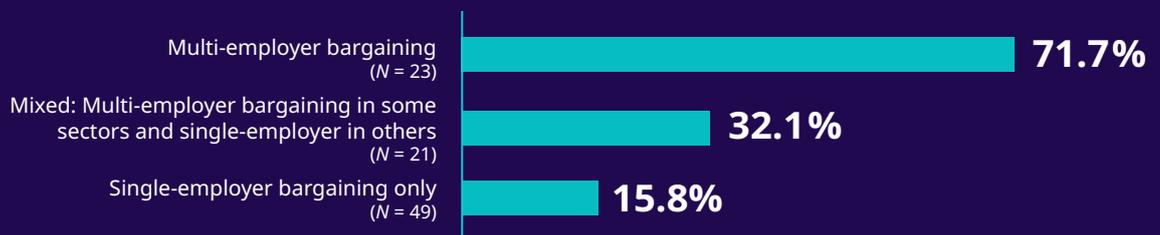
## ▶ The regulatory coverage of collective bargaining is being shaped by:

The effective recognition of the right to collective bargaining



## ▶ The most inclusive form of bargaining is multi-employer bargaining

Collective bargaining coverage rate (mean\*\*)



\* Based on data for 98 countries.

\*\* Based on data for 93 countries. The level of collective bargaining could not be established for 5 countries.

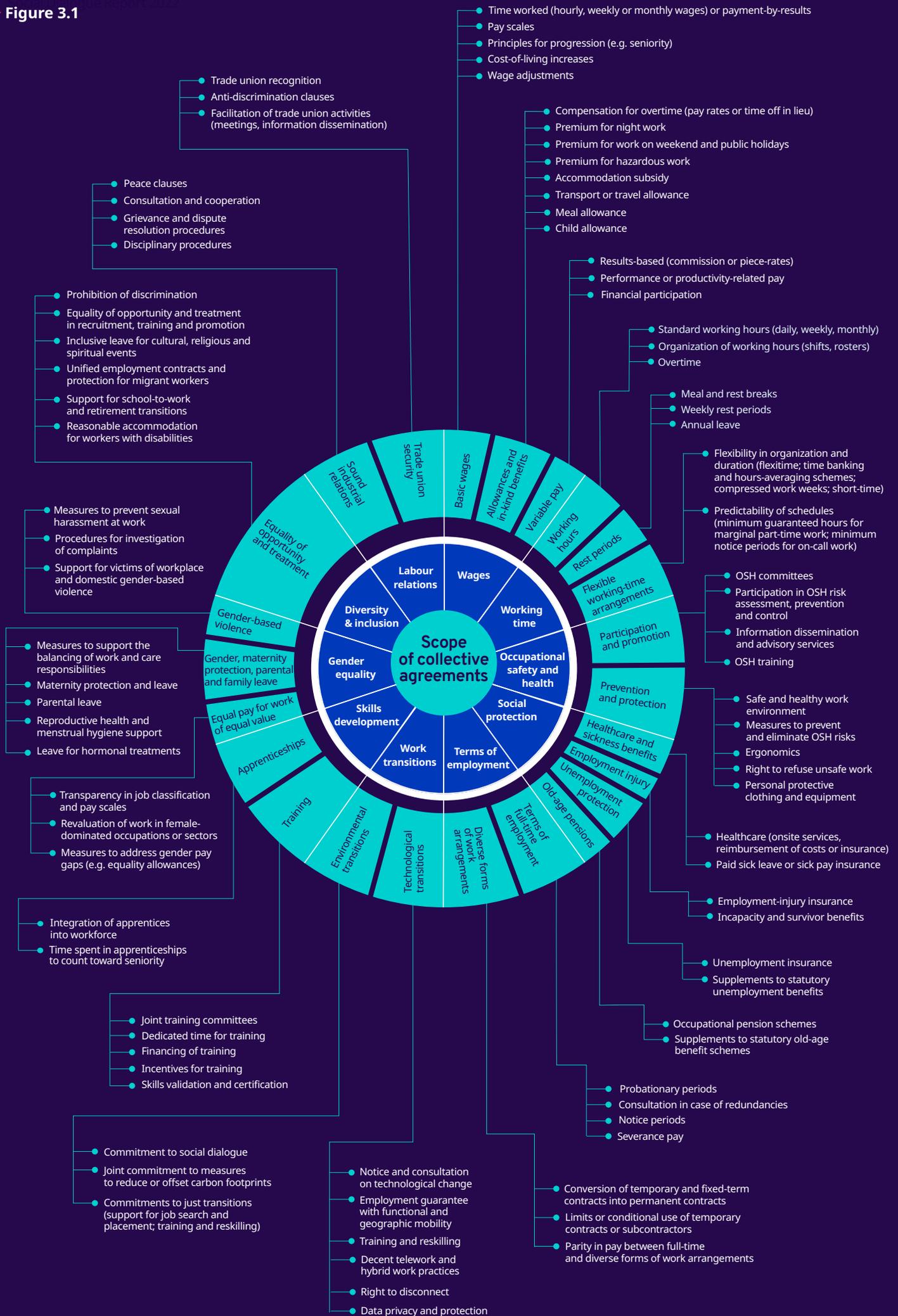


# The scope of collective agreements

Collective agreements include a range of substantive provisions on working conditions and terms of employment, such as wages, working time, occupational safety and health (OSH), healthcare benefits and training. Collective agreements may also address the rights and responsibilities of the parties. Much of the literature in recent years has focused on the impact of different institutional settings on labour markets, particularly in high-income countries (OECD 2019b). Less is known about the *scope* of collective agreements. How do collective agreements regulate wages and other working conditions, and how does this differ across countries and institutional settings? How do collective agreements address contemporary labour market challenges related to rising inequality in many parts of the world, skills development, the inclusion of young people and women in labour markets, and technological and environmental transitions? How do the parties use collective bargaining to make the most of the opportunities that lie ahead? These are some of the questions explored in the present chapter.

This chapter is based on the study of practices in 21 countries (see Appendix IV) together with textual analysis of 512 collective agreements and secondary sources. In view of the frequently confidential nature of collective agreements, a special protocol was developed to obtain and report information on these (see Appendix V and box 3.1). The data collected have been analysed under nine broad themes: wages; working time; OSH; social protection; terms of employment; skills development; technological and environmental transitions; equality, diversity and inclusion; and labour relations (see figure 3.1).

► Figure 3.1



► The scope of collective agreements

### ► Box 3.1 Facilitating access to collective agreements: The *Mediador* system in Brazil

During the research conducted for this report, access to collective agreements for some countries and regions proved challenging. In a number of countries, such agreements are confidential and are only made available to a labour inspector or labour administration body upon request. However, their content – which reflects an outcome shaped by the parties to negotiations – can be a valuable source of public information. In some cases, the content can even serve as a regulatory standard against which other enterprises may wish to voluntarily benchmark their own practices for decent work. Information on the content of collective agreements can also improve coordination of wage bargaining, increase the transparency of bargaining and contribute to the dissemination of equitable and innovative practices.

In Brazil, the Ministry of Labour introduced the *Mediador* online system in 2007, enabling employers' organizations and trade unions to register their collective agreements electronically. Prior to this, collective agreements were registered in the Ministry's local branches (the regional labour offices) and a copy was also sent to the central office in Brasília. Their registration with the Ministry of Labour gave them the force of law. However, this procedure made it difficult and expensive to study agreements (Horn 2006). The introduction of *Mediador* led to a steady increase in the voluntary electronic registration of collective bargaining instruments, from 32,000 in 2009 to almost 50,000 in 2017. The system facilitated the harmonization of the format used to record the clauses in conventions and agreements. *Mediador* has enabled benchmarking and also facilitated research into collective agreements. It has greatly enhanced the accessibility and transparency of these instruments, offering users the opportunity to access and download the full content of hundreds of thousands of agreements.

The Inter-Union Department of Statistics and Socio-Economic Studies (DIEESE) created a digital database of collective agreements called SACC (*Sistema de Acompanhamento de Contratações Coletivas*, "Collective Contracts Monitoring System") in 1993. The project increased the availability of information and the capacity for analysis of collective agreements and has been periodically expanded. Access to the database is available to researchers and institutions upon request. In addition to the collective agreements in the database, the studies produced by DIEESE now also draw on the *Mediador* data, using dedicated software to extract the information needed from the hundreds of thousands of instruments available.

**Sources:** ILO, see Appendix IV; Horn (2006); DIEESE (2022).

The analysis of agreements and practices reveals considerable variation in the scope of collective agreements across countries, sectors and enterprises, as well as across the public and private sectors. Traditional "bread and butter" topics, such as wages and working time, remain the core bargaining issues in the vast majority of countries. Even so the parties to collective bargaining are developing new approaches to address these topics – for example, frameworks on working-time flexibility that allow for greater work–life balance. Collective bargaining has traditionally focused on the distribution of productivity gains, but at a time of sluggish productivity growth, issues pertaining to performance-related pay are increasingly featuring on bargaining agendas. As more women enter the labour market and their membership in trade unions grows (see Chapter 4), such questions as how to close the gender wage

gap, how to balance work and care responsibilities, how to tackle gender-based violence at work and how to ensure equal treatment are a priority for collective bargaining in many contexts. New and emerging topics are also being addressed, in particular, ways of facilitating just digital and environmental transitions.<sup>1</sup>

Interestingly, the most significant variation observed has not so much to do with the topics addressed by collective agreements as with *how* they are addressed. This is not entirely unexpected, since the manner in which collective agreements govern working conditions and terms of employment depends on the broader regulatory and industrial relations context. Nevertheless, there are certain discernible patterns which have a direct bearing on the way in which collective agreements contribute to the inclusive and effective governance of work (see table 3.1).

<sup>1</sup> In the Global Call to Action for a Human-Centred Recovery from the COVID-19 Crisis That Is Inclusive, Sustainable and Resilient, adopted by the International Labour Conference in June 2021, all governments and employers' and workers' organizations committed themselves to "leverage the opportunities of just digital and environmental transitions to advance decent work, inter alia through social dialogue, including collective bargaining and tripartite cooperation" (ILO 2021a, para. 11(A)(j)).

► **Table 3.1 The potential contribution of collective agreements to the inclusive and effective governance of work**

Theme	Potential contribution to the inclusive and effective governance of work
<b>Wages</b>	<ul style="list-style-type: none"> <li>▶ Establishes a wage floor (or wage floors) and standardizes wages, using clear and transparent principles for progression</li> <li>▶ Reinforces compliance with the statutory minimum wage</li> <li>▶ Reduces wage inequality</li> <li>▶ Operationalizes the principle of equal pay for work of equal value</li> <li>▶ Regulates wages of workers in different contractual arrangements</li> <li>▶ Forges linkages between wage and productivity growth, accompanied by a sharing of productivity gains</li> <li>▶ Enables sharing and transparency of information (within the bounds of confidentiality)</li> <li>▶ Facilitates adjustment to economic shocks</li> </ul>
<b>Working time</b>	<ul style="list-style-type: none"> <li>▶ Tailors working-time arrangements to meet the needs of enterprises and workers</li> <li>▶ Strengthens compliance with statutory working-time standards</li> <li>▶ Facilitates “regulated flexibility” in working time in the interests of both employers (responding to fluctuations in demand) and workers (greater autonomy and improved work-life balance)</li> <li>▶ Allows for development of new regulatory approaches</li> </ul>
<b>Occupational safety and health</b>	<ul style="list-style-type: none"> <li>▶ Facilitates participation in implementation of OSH standards</li> <li>▶ Promotes a preventative approach to OSH protection</li> <li>▶ Strengthens compliance with regulatory OSH standards</li> </ul>
<b>Social protection</b>	<ul style="list-style-type: none"> <li>▶ Complements existing statutory provisions within national social protection systems</li> <li>▶ Contributes to the sustainable and equitable collective financing of social protection (in multi-employer bargaining settings)</li> <li>▶ Supports a healthy and productive workforce</li> <li>▶ Facilitates work and labour market transitions</li> </ul>
<b>Terms of employment</b>	<ul style="list-style-type: none"> <li>▶ Enables retention of firm-specific skills and a committed workforce</li> <li>▶ Allows for “regulated flexibility” in use of diverse forms of work arrangements with inclusive labour protection for all workers</li> <li>▶ Complements and reinforces compliance with employment protection legislation</li> <li>▶ Ensures procedural fairness</li> </ul>
<b>Technological and environmental transitions</b>	<ul style="list-style-type: none"> <li>▶ Facilitates reskilling and adaptation</li> <li>▶ Maximizes returns on investment through the smooth implementation of new technologies and the “greening” of production</li> <li>▶ Enables the parties to seize opportunities and promotes economic security in the face of transitions</li> <li>▶ Enables the development of new regulatory approaches</li> </ul>
<b>Skills development</b>	<ul style="list-style-type: none"> <li>▶ Tailors skills development programmes to industries and enterprises</li> <li>▶ Facilitates collective financing of training (in multi-employer bargaining settings)</li> <li>▶ Enables inclusion of apprentices and young workers in labour markets</li> </ul>
<b>Equality, diversity and inclusion</b>	<ul style="list-style-type: none"> <li>▶ Addresses the gender pay gap</li> <li>▶ Enables maternity protection and parental and family leave, thereby supporting continued inclusion</li> <li>▶ Facilitates the prevention and elimination of violence at work</li> <li>▶ Enables the inclusion of vulnerable groups of workers</li> <li>▶ Institutionalizes the principles of non-discrimination and equality of opportunity</li> </ul>
<b>Labour relations</b>	<ul style="list-style-type: none"> <li>▶ Facilitates stability and labour peace</li> <li>▶ Clarifies rights and responsibilities of the respective parties</li> <li>▶ Institutionalizes information-sharing, consultation and cooperation</li> <li>▶ Prevents disputes and, otherwise, enables their timely resolution</li> </ul>

At one end of the spectrum, collective agreements provide solutions that are *tailored* to the needs of enterprises and workers in a particular sector or enterprise. Such tailoring can be clearly observed in provisions on working-time arrangements and training. At the other end of the spectrum, some collective agreements appear merely to *replicate* existing statutory provisions on the topics under negotiation. This is often the case in developing countries, where the replication of, say, the statutory minimum wage and statutory standards on working time and OSH may strengthen *compliance* with these standards. A third notable pattern is the incorporation of clauses that *complement* statutory standards and public policies. This is particularly true of unemployment protection, sickness benefits, healthcare and pensions: the relevant provisions in collective agreements frequently complement existing statutory provisions within national social protection systems.

# 3.1

## Wages and working time

**Wages remain one of the principal subjects of negotiation for employers and their representative organizations on the one hand, and trade unions on the other. Most of the agreements analysed (95 per cent) include clauses on wages.** Wage-setting practices in collective agreements differ significantly across countries, sectors and enterprises, depending on the level of economic development, the institutional setting and the relative power resources of the parties involved. Substantive clauses in collective agreements on the fixed component of wages (see figure 3.2) vary in respect of how the basic wage is defined (by time worked or output), whether

the agreements include wage schedules and a wage structure, whether the process of job evaluation and classification within that structure is the subject of collective bargaining, and how wage increases are incorporated. In certain countries, allowances and in-kind benefits account for a significant proportion of the wage bill. Negotiated wages may also include a variable component linked to productivity and performance.

### 3.1.1 Wages

#### Fixed wages

The fixed component of wages in collective agreements typically refers to the basic pay, or base wage.<sup>2</sup> Most collective agreements specify the base wage in terms of time worked, whether hourly, weekly or monthly. There are some instances where negotiated basic pay is based on quantitative output (such as pieces and items produced) or commission, and not time worked. In such cases, collective agreements may establish a “wage floor” for these payment-by-results systems. However, most collective agreements specify a wage rate for time worked.

Collective agreements typically set out the base wage for particular job roles or occupational categories according to a schedule, and the differentials between specified categories (that is, pay scales). This establishes the wage structure for a given enterprise or sector. Agreements may also lay down transparent principles for progression, such as skill level and seniority (years of service). In some countries, sectors and enterprises – particularly those with high collective bargaining coverage – the job classification schemes<sup>3</sup> on which these scales are based are also the subject of collective bargaining (for example, in Belgium and France; see Fougère, Gautier and Roux 2016). In others, company policies determine pay scales, which are incorporated into individual employment contracts.<sup>4</sup>

To protect real wages, many collective agreements adjust wages in line with inflation. In some sectors and enterprises this is achieved through

<sup>2</sup> The base wage is the rate of pay for a job, to which can be added various supplements such as bonuses, allowances and benefits (Heery and Noon 2017). For a discussion of collective agreements and the base wage in the United States, see Farber et al. (2018); for European countries, see Fougère, Gautier and Roux (2016); Card and Cardoso (2021).

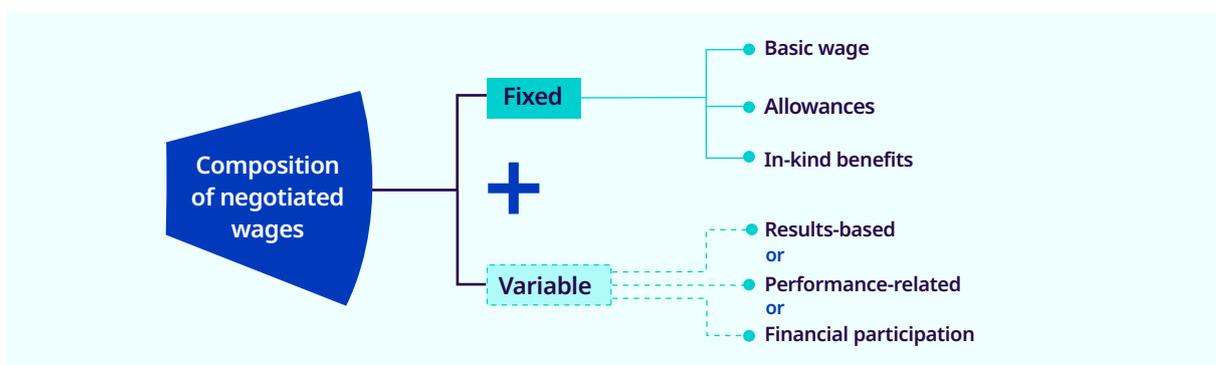
<sup>3</sup> Job classification schemes are based on a process of job evaluation which produces a hierarchy of jobs as the basis for determining relative levels of pay. A formal job evaluation process seeks to ensure transparency and the elimination of bias (Arthurs 2001).

<sup>4</sup> For example, collective agreements in Egypt and Indonesia (source: ILO) and the Republic of Korea (Appendix IV).

the automatic indexation<sup>5</sup> of negotiated wages to the consumer price index (CPI).<sup>6</sup> In others, reference to the CPI is either implicit (that is, the CPI is mentioned during negotiations but not referred to in the agreement) or explicit, referred to in the agreement without automatic indexation.<sup>7</sup> Many collective agreements also provide for additional increases that affect the entire wage structure. In some instances, increases are negotiated periodically during the duration of the collective agreement with a view to distributing productivity gains.<sup>8</sup> Practices in this regard vary: structural wage increases may be agreed for all

workers, only for those earning the minimum base wage, or on a staggered basis, with higher increases for those earning the base wage in each grade, thus compressing the wage structure. They may be based on a percentage increase or a fixed monetary amount. In countries with multi-level bargaining systems, some sectoral agreements provide for a percentage increase in the total wage bill, leaving the detailed breakdown of this increase to be decided through collective bargaining at the enterprise level.<sup>9</sup> Such practices can strengthen the role of collective bargaining in tackling earnings inequality (see box 3.2).

► **Figure 3.2 Composition of negotiated wages**



► **Box 3.2 Negotiating for improved equality of earnings**

The theoretical and empirical findings of Freeman and Medoff (1984) regarding the equity-enhancing effects of unions and collective bargaining have been consistently corroborated across a range of country contexts (for a review, see Hayter and Weinberg 2011; Hayter 2015; Visser and Checchi 2011). First, collective agreements typically reflect the preferences of the median trade union member, who tends to be low-skilled and to earn less than the average worker. By lifting wage floors where the majority of trade union members are to be found and reducing the gap between low- and high-wage earners, collective agreements compress wage structures (Card, Lemieux and Riddell 2003). Evidence from Europe shows that enterprises covered by collective agreements have a more compressed wage distribution than those not covered (Vaughan-Whitehead and Vazquez-Alvarez 2018, 43). A higher rate of collective bargaining coverage is also associated with a lower incidence of low pay, that is, the share of workers earning less than two thirds of median earnings (Metcalfe, Hansen and Charwood 2001; Bosch 2015). Coverage by collective agreements in this region also tempers the potential contribution of performance-based pay to earnings inequality (Zwysen 2021).

<sup>5</sup> Indexation refers to a practice in which pay is updated on a regular basis in line with indices of average earnings or inflation (Heery and Noon 2017).

<sup>6</sup> For example, sectoral agreements in Belgium, Luxembourg and Tunisia, and enterprise agreements in Chile (Appendix IV).

<sup>7</sup> For example, sectoral agreements in North Macedonia, South Africa and Switzerland, and enterprise agreements in Egypt, the Republic of Korea and Trinidad and Tobago (source: ILO and Appendix IV).

<sup>8</sup> For example, sectoral agreements in Switzerland and Uruguay and enterprise agreements in Mexico, Senegal and the Republic of Korea (source: ILO and Appendix IV).

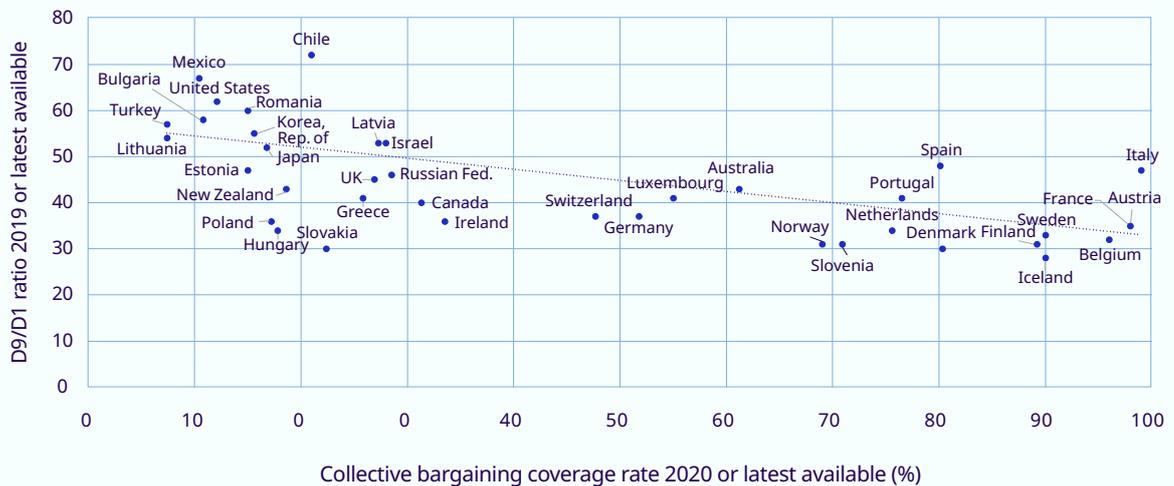
<sup>9</sup> For example, in Austria and Sweden.

Box 3.2 (cont'd)

Second, collective agreements standardize wage rates, thereby reducing the impact of individual characteristics on the variance of wages, resulting in less dispersion within organized enterprises and sectors than in unorganized ones (Freeman and Medoff 1984). Among high-income countries, those with coordinated bargaining systems and high collective bargaining coverage are associated with higher employment, a better integration of vulnerable groups of workers and lower wage inequality than those with fully decentralized bargaining systems (Garnero 2020; OECD 2019b). In developing countries, while collective agreements may improve wage inequality in a particular enterprise or sector covered by such an agreement, given low to moderate coverage rates and varying degrees of informality, the effect on earnings inequality more generally tends to be somewhat limited. Other factors, such as the formalization of labour markets and minimum wage-setting, are likely to play a more significant role (Cornia 2014). As one would expect based on findings from empirical studies examining causality, countries with higher bargaining coverage are also those with a lower D9/D1 ratio of earnings. This measure highlights the difference between the top 10 per cent (9th decile) of the earnings distribution, compared to the bottom 10 per cent (1st decile). A lower ratio implies a smaller difference. A higher ratio means there is a greater difference between the top and bottom 10 per cent of the earnings distribution.

The specific collective bargaining practices used to improve equality in earnings also depend on the context. For example, in South Africa, across-the-board structural increases, amounting to a flat rate or percentage increase, whichever is greater, have been negotiated to tackle the apartheid-era wage gap and compress wage scales. In Austria, sectoral collective agreements can grant works councils and management the option of distributing a certain proportion of the yearly wage increase among particular groups of workers. This “distributional option” (*Verteiloption*) is used by employers and works councils to (a) improve wage structures by raising the earnings of low-wage workers and addressing the gender pay gap; and (b) enhance incentive systems by linking performance to remuneration.

► Figure 3.3 Earnings inequality and collective bargaining coverage (latest available year), selected countries



Note: The D9/D1 ratio refers to the ratio of the highest decile (D9) of the earnings distribution to the lowest decile (D1).

Source: ILOSTAT and OECD.Stat.

In addition to wages, collective agreements may specify a range of other allowances and in-kind benefits that supplement the base wage. These include allowances for accommodation, transport and meals, child and education allowances, holiday bonuses, attendance bonuses and seniority bonuses.<sup>10</sup> They may also include in-kind benefits such as meal vouchers, accommodation, work clothes, the provision of school supplies (for example, textbooks at the beginning of the school year) and end-of-year baskets. It is common for collective agreements to also stipulate allowances or premiums for work in uncomfortable or high-risk conditions. For example, enterprise agreements in Viet Nam include a “hot sun” allowance. The value of such allowances and in-kind benefits is not negligible: they can make up a significant share of the fixed wage. For example, in Viet Nam, allowances account for between 15 and 30 per cent of total earnings in enterprise agreements.

### Variable pay

In some instances, a proportion of collectively determined wages consists of variable pay linked to performance. While still relatively limited, the use of clauses and schemes to that effect has been growing in recent years (Marginson 2015, 101). This form of pay is more flexible – that is, less standardized and more variable – than standard time-based pay, and it supplements fixed wages. There are three main categories of variable pay. The first is payment by results, such as commission-based payments, piece rates and productivity bonuses where the variable component is linked to quantitative output. The second is performance-related pay, where an individual or team is assessed against certain qualitative criteria. The third category comprises financial participation schemes linked to an enterprise’s performance and profitability, such as profit-sharing schemes (van het Kaar and Grünell 2001; Marginson, Arrowsmith and Gray 2008). **Around 44 per cent of the agreements analysed for this report include clauses linking pay to performance, the proportion of which is highly variable.**

In countries with long-established institutional traditions of collective bargaining and a high degree of coordination by peak-level social partners, collective bargaining facilitates the setting of performance-related variable pay by creating an

agreed framework that ensures transparency and procedural certainty for employers and workers (for example, in Austria and Belgium). In some countries, bargaining parties choose to implement legally mandated profit-sharing schemes through collective agreements at the enterprise level.<sup>11</sup> In low-income countries, the inclusion of variable pay in collective agreements tends to be results-based. For example, enterprise agreements in the textile sector in Cambodia, Ethiopia and Viet Nam link bonuses to output.

In view of the ongoing decentralization of collective bargaining in European countries, the question arises as to whether this has facilitated or inhibited the negotiation of performance-related pay at the enterprise level. Boeri (2014) finds that enterprises without collective agreements allocate the highest proportion of the wage bill to performance-related pay. Among enterprises covered by collective agreements, those under multi-employer bargaining arrangements allocate a higher proportion of the wage bill to performance-related pay than enterprises bargaining individually (single-employer). Finally, enterprises under two-tier collective bargaining allocate the lowest proportion, which Boeri (2014, 16) ascribes to the fact that performance-related pay in two-tier systems can only operate upwards. Bechter, Braakmann and Brandl (2021), who apply a more stringent methodology, find a higher incidence of variable pay among enterprises covered by collective agreements than among those not covered. The incidence of variable performance-related pay is also greater in multi-employer multi-level bargaining arrangements than in single-employer arrangements established only at the enterprise level. While these studies point to significant compatibility between collective bargaining and variable pay, the relationship is dependent on the type of variable performance-related pay, institutional traditions and the degree of vertical coordination within multi-level (two-tiered) bargaining structures.

## 3.1.2 Working time

**The second most common focus of collective agreements is working time. A large majority (85 per cent) of the agreements analysed include clauses on working time.** Collective

<sup>10</sup> For example, sectoral agreements in North Macedonia (source: ILO); and enterprise agreements in Chile, Colombia, Costa Rica and Viet Nam (sources: ILO and Appendix IV). Additionally, at the enterprise level in CBA-Chile#224 and CBA-Peru#236.

<sup>11</sup> For example, in Belgium, under Act No. 33 of 22 May 2001, on the participation of employees in the capital of companies and the establishment of a profit bonus for employees; in France, under Act No. 990 of 6 August 2015, on growth, activity and equal economic opportunity; in Brazil, profit- and results-sharing programmes as set out in Act No. 10,101 of 2000, amended in 2013 by Act No. 12,832; and in Egypt, where the law gives employees the right to receive a share of the profits.

agreements typically regulate both standard working hours (for example, an 8-hour day and a 40-hour working week) and deviations from the standard, that is, overtime work and its remuneration. They often also include clauses on daily and weekly rest periods, periods of paid leave and flexible working time arrangements. The manner in which collective agreements address working time and contribute to the inclusive and effective governance of work is contingent on the role played by collective bargaining in the broader regulatory framework for working time. Depending on the country, working-time standards may be mandated by legislation, negotiated or unilaterally determined (Berg, Bosch and Charest 2014).

Countries in which working-time standards are negotiated depend on a high degree of coverage by collective agreements and of organization among trade unions and employers' organizations. Trade unions and employers' organizations typically agree on a broad regulatory framework for, say, flexible working time, allowing the organization of working hours to be tailored at the enterprise level by works councils or trade unions and employers. This results in a high degree of stability in working-time practices and can also lead to considerable innovation and "regulated flexibility" (Berg, Bosch and Charest 2014). Such a model is not readily transferable to other regulatory contexts, such as those with segmented labour markets and low levels of organization among trade unions and employers' organizations (Lee and McCann 2011). In countries in which legislation plays a primary role in determining working time, agreements may serve to adapt these statutory norms, often by reducing statutory working-time standards, deviating from these on terms permissible in the law, or tailoring the organization of working time under the statutory norms to take into account the needs of enterprises and workers (Anxo and Karlsson 2019; Eurofound 2016).

In developing countries, collective agreements frequently replicate statutory standards on working time.<sup>12</sup> This regulatory role of collective agreements can be important in terms of monitoring standard working time and promoting compliance. A study of 37 enterprise agreements from seven sectors in the Philippines demonstrates the potential of collective agreements replicating statutory standards to institutionalize good practices (Serrano 2019).

**In addition to standard working time, many collective agreements also address compensation for overtime, which may either be monetary or take the form of time off in lieu of time worked. Half of the agreements analysed (51 per cent) include provisions for overtime.** Collective agreements may modify the statutory norm in respect of the maximum number of hours for a given reference period and/or lower the threshold at which overtime begins (Anxo and Karlsson 2019). In countries with medium to high rates of collective bargaining coverage, agreements may apply a sliding scale for overtime remuneration, which increases as overtime working hours increase.<sup>13</sup> Some collective agreements at the enterprise level stipulate the provision of meals during overtime work.<sup>14</sup>

With regard to rest periods, collective agreements typically provide solutions that are tailored to the needs of both industry and workers. For example, a collective agreement in Argentina for construction workers on oil and gas platforms provides that, when workers stay offshore for a longer uninterrupted time period, they are to be granted compensatory rest of 9 days for every 21 days effectively worked (ILO 2019d). Where legislation plays a greater role in the regulation of working time, agreements may provide for more days of paid leave than is legally mandated. For example, in France an enterprise agreement in the meat sector (2018) provides for 30 days' leave, compared with the legal minimum of 25 days (Eurofound 2019).

**The scope of collective agreements has expanded in many countries to include flexible working-time arrangements.** The integration of markets and rising competition has reinforced employers' interest in organizing working time around uneven patterns of demand without increasing the labour costs associated with overtime. At the same time, the increasing participation of women and older persons in the labour market means that workers increasingly wish to have a degree of choice over the organization of their working time (Berg, Bosch and Charest 2014). Flexible working-time arrangements typically involve changes in respect of the duration of working time (for instance, working shorter or longer hours within hours-averaging schemes or working-time accounts), the organization of working time (for example, non-standard working-time schedules) and/or the degree of

<sup>12</sup> For example, enterprise agreements in Cambodia, Indonesia, Peru, the Philippines, Senegal, United Republic of Tanzania, Viet Nam and Zambia (Appendices IV and V).

<sup>13</sup> An example is the sectoral agreement in metal and technology (2019–21) in the Netherlands. See Ch. 6, art. 42, of the [agreement](#) (available in Dutch only).

<sup>14</sup> For example, at the enterprise level (CBA-Australia#60, CBA-Trinidad and Tobago#220 and CBA-USA#113) and in Cambodia (Appendix IV).

variability associated with the organization of working time (as in on-call work) (Campbell 2017). **Just over half of the agreements analysed (53 per cent) include provisions on flexible working time.** These include clauses on compressed working weeks, short-time work, time banking, hours-averaging schemes (monthly or annual), flexitime, long leave and minimum notice periods.

In countries with a longer tradition of collective bargaining, integrative bargaining practices enable parties to arrive at agreements that offer a wider range of working-time options to meet enterprises' needs for variability and workers' needs for autonomy. Some include innovative arrangements that allow for flexibility over the life course – in particular, options to take leave or reduce working hours during life transitions (such as having children, reskilling or caring for elderly relatives) (Klenner and Lott 2016). For example, in Germany, collective agreements in the metal industry have typically involved an exchange of shorter working time for greater flexibility (Schulten and Bispinck 2017). An innovative agreement in 2018 introduced the possibility for workers to exchange a lump-sum payment for additional days of leave and, under certain conditions, to reduce working time to a minimum of 28 hours per week for a period of up to 24 months. For workers choosing mobile working (where it is offered), the agreement permits deviation from statutory rest periods which has long been a demand of employers, reducing these from 11 to 9 hours as long as the workers themselves are allowed to select the beginning or end of the working hours and are entitled to receive compensation.<sup>15</sup>

When it comes to marginal part-time work, collective agreements can also enable the parties to reach a balance between variable scheduling on the one hand, and the predictability of work schedules and income security on the other, by, say, providing minimum guaranteed hours of work per shift (in the case of zero-hour contracts) and minimum notice periods (in the case of on-call work). For example, in Portugal, a sectoral agreement in the ceramics and glass industry establishes a minimum of six hours per shift (Portugal, CRL 2018). In New Zealand, an enterprise-level collective agreement concluded in 2015 in the fast-food sector guaranteed part-time workers at least 80 per cent of the hours worked over the previous three months (Campbell 2018).

The negotiation of flexible working-time arrangements can be an important source of resilience. For example, in response to the Great Recession of the late 2000s, bargaining parties in Austria, Belgium, France, Germany, Italy, the Netherlands, Sweden and Uruguay negotiated agreements on short-time work as a way of preventing employment losses and ensuring that enterprises could return to full capacity once the economy picked up (González Fernández 2013; Flecker and Schönauer 2013; Glassner, Keune and Marginson 2011). As Chapter 5 shows, this institutional capacity for adaptation proved critical during the COVID-19 pandemic in 2020 and 2021.

## 3.2 Occupational safety and health

Safe and healthy working conditions are fundamental to decent work.<sup>16</sup> International labour standards place a strong emphasis on a culture of preventive safety and health, on the adoption and implementation of a national OSH policy, and on tripartite consultation in the formulation, implementation and review of such a policy.<sup>17</sup> OSH regulations and policies combine promotional, participatory and protective standards, leveraging the complementarities between them to make each type of standard more effective in achieving its objectives (Sengenberger 1994, 57). Promotional standards are designed to elicit, or support, policies and actions regarded as desirable – among other ways, through the creation of national bodies to oversee OSH management. Participatory standards involve the sharing of information, consultation and joint decision-making and monitoring, typically through OSH committees or collective bargaining in itself. Protective standards are designed to protect

<sup>15</sup> Wage agreement in the metal and electrical engineering industries (2018).

<sup>16</sup> ILO Centenary Declaration for the Future of Work (ILO 2019b, para. II.D).

<sup>17</sup> See the [Occupational Safety and Health Convention, 1981 \(No. 155\)](#); and the [Occupational Safety and Health Recommendation, 1981 \(No. 164\)](#).

workers from a hazardous work environment and any risks to their health and safety.

**In most countries, the regulation of OSH is driven primarily by national legal and policy frameworks. Guidelines, codes of practice and technical standards also play an important role (ILO 2009). Collective agreements may complement these measures by jointly implementing these standards on the one hand, and by contributing to the comprehensive and effective management of OSH on the other.** This includes the key elements of effective OSH management systems: policies, planning, implementation, evaluation and action for improvement. Both parties to collective bargaining will have an interest in preventing occupational accidents and disease. **Around 69 per cent of the agreements reviewed contain one or more clauses on OSH.** As discussed in Chapter 5, during the COVID-19 pandemic collective bargaining has played an important role in the implementation of public health measures and contributed to the effective prevention and control of workplace contagion, thus supporting the continuity of businesses and protecting workers.

## Promotional and participatory standards

Promotional frameworks for OSH reflect both the respective responsibilities of employers and workers (and their representatives) for workplace safety and health, as well as their rights, roles and the areas for cooperation between them (ILO 2005). Collective agreements frequently include provisions on the participation of workers and their representatives in OSH committees, reaffirming statutory standards in this regard. This can contribute to the effectiveness of OSH management systems. For example, an enterprise-level agreement in the education sector in the

United States tasks the joint OSH committee with developing and disseminating safety information for employees, reporting and discussing unsafe conditions or practices, and recommending remedial measures.<sup>18</sup> Collective agreements in Brazil establish internal commissions for accident prevention that are responsible for identifying OSH hazards, developing work plans to prevent accidents and disseminating information to employees.<sup>19</sup> In addition, the collective agreements reviewed include provisions dealing, inter alia, with:

- ▶ the establishment of an occupational health and safety management system, including participation in hazard identification, risk assessment, and risk prevention and control;<sup>20</sup>
- ▶ the membership of OSH committees<sup>21</sup> and, more specifically, the inclusion of trade union officials as members of OSH committees;<sup>22</sup>
- ▶ the duty of health and safety representatives of workers in OSH committees to monitor the safety of workplaces and the impact of production activities on the working environment;<sup>23</sup>
- ▶ the coordination of OSH committees throughout the sector to centralize OSH-related knowledge, initiatives and measures;<sup>24</sup>
- ▶ commitments to provide health and safety training to all workers and paid leave to health and safety representatives so that they can attend relevant training events;<sup>25</sup>
- ▶ the establishment of an ergonomics committee to monitor the evolving ergonomic needs of workers and assess risks;<sup>26</sup>
- ▶ the delivery of training on ergonomic practices to prevent work-related injuries;<sup>27</sup>
- ▶ health surveillance and the promotion of workers' well-being (for example, by providing access to fitness centres);<sup>28</sup>

18 CBA-USA#273.

19 For example, agreements at the territorial level (CBA-Brazil#266; CBA-Brazil#280; CBA-Brazil#286; CBA-Brazil#289) and at the enterprise level (CBA-Brazil#278).

20 For example, at the enterprise level (CBA-China#504; CBA-Colombia#87; CBA-Japan#337).

21 For example, at the sectoral level (CBA-Finland#204, CBA-Senegal#511), at the territorial level (CBA-Spain#433) and at the enterprise level (CBA-Canada#341, CBA-Colombia#87, CBA-France#24).

22 For example, at the sectoral level (CBA-Czechia#388), at the territorial level (CBA-Spain#433) and at the enterprise level (CBA-Canada#334, CBA-Colombia#87, CBA-Uganda#183).

23 For example, at the sectoral level (CBA-Denmark#397) and at the enterprise level (CBA-Colombia#87; agreement in the Argentine oil sector in Appendix IV).

24 At the sectoral level (CBA-France#325).

25 For example, at the sectoral level (CBA-Denmark#397, CBA-Slovakia#366, CBA-Spain#198) and at the enterprise level (CBA-Australia#197, CBA-Australia#409, CBA-Colombia#87, CBA-Japan#342).

26 At the sectoral level (CBA-South Africa#172) and at the enterprise level (CBA-Canada#341).

27 At the sectoral level (CBA-Colombia#169) and at the enterprise level (CBA-Spain#174).

28 For example, at the sectoral level (CBA-Colombia#169, CBA-Portugal#281), at the territorial level (CBA-Australia#237) and at the enterprise level (CBA-Canada#336).



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- ▶ the involvement of the OSH committee in inspections and investigations in the event of work-related injuries or accidents;<sup>29</sup> and
- ▶ the duty of the employer to consult employees when conducting risk assessments.<sup>30</sup>

### Protective standards

Protective standards typically reinforce statutory standards. They focus on the safety and health of workers. Some provisions relate more directly to protection and control of the working environment, others to personal protective equipment (PPE) as a complementary protective measure.

In addition to participation in the management of OSH, the most prevalent clauses in collective agreements are those on the working environment. These focus on the protection of workers and the factors affecting that environment. For instance, an enterprise-level agreement in the

manufacturing sector in Cambodia provides for the construction of emergency exits at the factory premises and the conduct of regular fire and emergency evacuation drills.<sup>31</sup> Other provisions in the collective agreements examined address:

- ▶ joint identification, evaluation and control of safety and health risks (including, for example, prohibition of entry to certain parts of the workplace deemed hazardous without permission, or only for limited periods);<sup>32</sup>
- ▶ the dissemination of information about OSH risks and the prevention of hazards to employees<sup>33</sup> and the duty to communicate the potential risks to health and safety posed by planned workplace changes;<sup>34</sup>
- ▶ suitable air temperature, and a clean and orderly workplace,<sup>35</sup> and procedures for reporting the quality of the air and noise levels in the workplace;<sup>36</sup>

29 For example, at the sectoral level (CBA-Czechia#388) and at the territorial level (CBA-Brazil#280), as well as agreements in South Africa (Appendix IV) and at the enterprise level (CBA-Cambodia#170, CBA-China#427, CBA-Uganda#183).

30 For example, at the sectoral level (CBA-Czechia#388, CBA-Slovenia#475) and at the enterprise level (CBA-China#504).

31 CBA-Cambodia#170.

32 For example at the sectoral level (CBA-Portugal#281, CBA-Slovakia#366) and at the enterprise level (CBA-Japan#337).

33 For example, at the territorial level (CBA-Brazil#289, CBA-Italy#173) and at the enterprise level (CBA-Canada#341, CBA-Mexico#223, CBA-USA#273).

34 At the territorial level (CBA-Australia#237).

35 For example, at the sectoral level (CBA-Czechia#388, CBA-Senegal#511, CBA-South Africa#172), at the territorial level (CBA-Australia#237) and at the enterprise level (CBA-Cambodia#170, high temperature allowance in CBA-China#427, CBA-India#59).

36 For example, at the enterprise level (CBA-Canada#329, CBA-Canada#334).

- ▶ the introduction of ergonomic requirements for the tools used by workers, the continuous evaluation of work processes to ensure that ergonomic standards are met, and commitments to ensure that workplaces comply with ergonomic standards and the needs of workers;<sup>37</sup>
- ▶ limits or restrictions on working alone or in confined spaces;<sup>38</sup>
- ▶ the right to refuse work if there are reasonable grounds to believe that it would endanger a worker's health or safety, or similarly jeopardize a co-worker;<sup>39</sup> and
- ▶ the documentation of work-related accidents, the maintenance of records of such events and, under certain circumstances, the reporting of accidents (for example, those that have caused more than three days of disability absence).<sup>40</sup>
- ▶ the regulation of the correct use of PPE and the return and maintenance of protective clothing;<sup>46</sup> and
- ▶ ensuring that the conditions necessitating the use of PPE are addressed through corrective measures to eliminate the hazard.<sup>47</sup>

## 3.3 Social protection

Other clauses address PPE as a complementary protective measure, ensuring it meets the specific needs of a particular industry or enterprise. For example, an agreement covering food delivery platform workers in Italy includes provisions for the supply of relevant PPE to riders, including a helmet, rain gear and a high-visibility jacket.<sup>41</sup> An agreement in the petroleum sector in Canada contains provisions on the supply of PPE, including coveralls, aprons, smocks, gloves, rubber boots, hard hats, safety glasses, breathing respirators and ear protectors, all of paramount importance in the handling of toxic and hazardous materials.<sup>42</sup> In addition, the collective agreements reviewed include provisions dealing, inter alia, with:

- ▶ the reimbursement of, or payment of an allowance to, workers for the purchase of work-appropriate clothing;<sup>43</sup> or the duty of employers to provide such equipment to workers;<sup>44</sup>
- ▶ the duty of workers to follow health and safety regulations, wear appropriate PPE and communicate the existence of potential health and safety risks;<sup>45</sup>

Provisions for social protection mitigate the risks associated with sickness, workplace injury, unemployment and old age. In 2020, however, more than half of the global population – as many as 4.1 billion people – remained outside the purview of any kind of social protection benefit (ILO 2021b). In mitigating these risks, **the vast majority of the collective agreements analysed seek to complement existing social protection systems.** The role played by collective bargaining institutions in supporting social protection varies significantly across countries and institutional settings. In some countries, multi-employer bargaining arrangements provide opportunities to create occupational welfare schemes through collective financing (Natali, Pavolini and Vanhercke 2018; Budlender and Sadeck 2007).

37 For example, at the sectoral level (CBA-Netherlands#195, CBA-Spain#326) and at the enterprise level (CBA-Brazil#279, CBA-Chile#223, CBA-Indonesia#66).

38 For example, at the sectoral level (CBA-Finland#109) and at the enterprise level (CBA-Canada#338).

39 For example, at the sectoral level (CBA-Senegal#511, CBA-Slovenia#475) and at the enterprise level (CBA-Brazil#162, CBA-Canada#329, CBA-Canada#334, CBA-Canada#341).

40 For example, at the sectoral level (CBA-Czechia#386, CBA-Czechia#388, CBA-Portugal#281) and at the enterprise level (CBA-Spain#428).

41 At the enterprise level (CBA-Italy#51).

42 At the enterprise level (CBA-Canada#331).

43 For example, at the territorial level (CBA-USA#153) and at the enterprise level (CBA-Canada#336, CBA-USA#113).

44 For example, at the sectoral level (CBA-Austria#389, CBA-Czechia#388, CBA-Senegal#511, CBA-Uganda#311), at the territorial level (CBA-Brazil#286) and at the enterprise level (CBA-Canada#331, CBA-Canada#333, CBA-Trinidad and Tobago#220, CBA-USA#122).

45 For example, at the sectoral level (CBA-Netherlands#195), at the territorial level (CBA-Brazil#280, CBA-USA#370) and at the enterprise level (CBA-Canada#334, CBA-Japan#335, CBA-Sri Lanka#156).

46 For example, at the sectoral level (CBA-Slovenia#475) and at the enterprise level (CBA-Canada#333, CBA-Canada#341).

47 For example, at the enterprise level (CBA-Canada#341).

## Access to healthcare and sickness benefits

**A large proportion (71 per cent) of the collective agreements analysed provide for healthcare, insurance to cover medical costs and insurance to compensate for loss of income due to illness.**

Such benefits, linked to the employment relationship, have proved invaluable during the COVID-19 pandemic (see Chapter 5).

In countries with universal healthcare, collective agreements tend to be more focused on specific treatment, such as dental insurance.<sup>48</sup> In countries with gaps in the provision of universal healthcare, including its provision through social health insurance, or where there is no collective financing through sectoral arrangements, agreements tend to subscribe enterprises to health insurance schemes and set out the division of costs between employers and employees.<sup>49</sup> In South Africa, a number of sectoral bargaining council agreements include clauses on medical benefit schemes and sick-pay funds, administered by the bargaining council (Budlender and Sadeck 2007). The Minister of Employment and Labour frequently extends these agreements to non-parties, as they are an important source of social protection.

In other instances, collective agreements include clauses on reimbursements for hospital visits or medical expenses<sup>50</sup> or on the sharing of costs for hospitalization and medical treatment between the employer and worker.<sup>51</sup> Some enterprise-level agreements also provide for regular medical check-ups for workers.<sup>52</sup> In Bangladesh and Cambodia, the parties agreed to establish in-house medical clinics staffed by qualified doctors and nurses to attend to emergencies or sudden illness along with other medical concerns of workers.<sup>53</sup> A few agreements devote special attention to epidemic-related prevention, as in

the United Republic of Tanzania, where collective agreements include an HIV/AIDS programme, or Uganda, where days off are given not just to expectant mothers so that they can give birth, but also later on so that they can arrange for their children to be immunized.<sup>54</sup>

With regard to insurance for the loss of income due to illness, some collective agreements supplement the partial coverage for sick leave provided by public insurance schemes. In Canada, France, the Netherlands, Sweden and Switzerland, collective agreements top up statutory income replacement during illness (Hemmings and Prinz 2020; Halima, Koubi and Regaert 2018). An important provision, found more frequently in collective agreements in developing countries but also included in some agreements in high-income countries, is the coverage of funeral and burial costs.<sup>55</sup>

## Employment injury

As a complement to existing insurance, a number of collective agreements cover medical costs arising from workplace injuries and the provision of temporary time-limited incapacity cash benefits for the loss of income due to work-related accidents.<sup>56</sup> For more severe injuries, some collective agreements provide for permanent incapacity and survivorship benefits, in some instances supplementing statutory benefits.<sup>57</sup> Collective agreements may also regulate the conditions under which an injured or disabled worker can return to work, such as rotating shifts, adjusted working time and the changing of certain tasks to better accommodate the worker.<sup>58</sup>

## Unemployment protection

In Belgium, Denmark, Finland, Iceland and Sweden, collective agreements are embedded in

48 For example, at the territorial level (CBA-Canada#81) and at the enterprise level (CBA-Canada#336).

49 For example, at the enterprise level (CBA-Colombia#87, CBA-USA#113, CBA-USA#275).

50 For example, at the sectoral level (CBA-India#498).

51 For example, at the sectoral level (CBA-Togo#468).

52 For example, agreements in Cambodia and the Republic of Korea (Appendix IV) and at the enterprise level (CBA-Japan#337).

53 At the enterprise level (CBA-Bangladesh#499, CBA-Cambodia#170).

54 At the sectoral level (CBA-Uganda#311) and at the enterprise level (CBA-Tanzania#497).

55 For example, in the Philippines (Appendix IV), at the sectoral level (CBA-North Macedonia#185, CBA-Republic of Korea#480, CBA-Sri Lanka#472, CBA-Togo#468, CBAUganda#311), at the territorial level (CBA-Brazil#274, CBA-Brazil#280, CBA-Brazil#289, CBA-Viet Nam#72) and at the enterprise level (CBA-Chile#221, CBA-Indonesia#66, CBA-Japan#342, CBA-Pakistan#99, CBA-Republic of Korea#110, CBA-Tanzania#497, CBA-Uganda#112, CBA-Viet Nam#77).

56 For example, collective agreements in Trinidad and Tobago (Appendix IV), at the sectoral level (CBA-Finland#109, CBA-Switzerland#438), at the territorial level (CBA-Canada#81) and at the enterprise level (CBA-Japan#337, CBA-Japan#342).

57 For example, at the territorial level (CBA-Brazil#280) and at the enterprise level (CBA-Canada#331, CBA-Colombia#87, CBA-France#23, CBA-Spain#428).

58 For example, at the interprofessional level (CBA-Senegal#196), at the sectoral level (CBA-Albania#104), at the territorial level (CBA-Brazil#266, CBA-USA#153), and at the enterprise level (CBA-Canada#331, CBA-Canada#341, CBA-Malaysia#490).

the Ghent system, whereby trade unions administer state-subsidized, voluntary unemployment insurance. In some other systems, sectoral agreements establish pooled unemployment funds that complement statutory unemployment insurance (for example, in France, Italy and South Africa). Agreements may also address the risk of unemployment by committing employers to take out insurance to provide workers with income protection.<sup>59</sup> Chapter 5 looks at how these features of collective agreements have complemented statutory employment-retention measures during the COVID-19 pandemic and contributed to resilience.

### Old-age pensions

The extent to which collective agreements include provisions on pension schemes depends on the social security system and the role afforded to the industrial relations actors within that system (Ebbinghaus and Wiss 2011). Collective agreements may reiterate employer responsibilities to contribute to public (contributory) old-age benefit schemes, thereby strengthening compliance. On the other hand, collectively negotiated occupational pension schemes may supplement public pensions, or complement these by providing collective alternatives with higher benefits.

**Half (50 per cent) of the agreements reviewed included provisions on old-age pensions.**

In some countries and sectors, interprofessional or sectoral agreements enable collective financing through occupational pension schemes (Trampusch 2013). For employers, this allows risk to be pooled within sectors, improving portfolio management and lowering administrative costs. For workers, such schemes facilitate mobility between enterprises in a given sector without the risk of incurring a loss or disadvantage in terms of pension benefits (Ebbinghaus and Wiss 2011). However, the sustainability of occupational pension schemes depends on the administrative capacity of bargaining institutions and the representativeness of the parties to these agreements (Trampusch 2009; Budlender and Sadeck 2007).

The State may make contributions mandatory by extending collective agreements to all employers based on the “sufficient” representativeness of the parties.<sup>60</sup> In other instances, enterprise agreements refer to occupational pension schemes run by individual enterprises or private providers, specifying the contributions to be paid by the employer and workers. This is more common in large enterprises and organizations and/or in countries and sectors where enterprise bargaining is the norm.

## 3.4 Terms of employment

A number of the collective agreements reviewed for this report contain provisions regulating the terms of employment, including probationary periods, notice periods, severance pay, and temporary and fixed-term contracts. Probationary periods range from under three months<sup>61</sup> to over a year.<sup>62</sup> Some of the agreements provide for fixed notice periods, regardless of the pay grade, ranging from six weeks to six months,<sup>63</sup> while others are seniority-based;<sup>64</sup> a few stipulate longer notice periods for older workers.<sup>65</sup> With regard to lay-off procedures, in addition to consultation and notice periods, some agreements set aside time for workers to search for new employment upon being notified of termination.<sup>66</sup> In the Republic of Korea, a sectoral agreement in the metallurgical sector provides for over six months of training to

59 For example, at the sectoral level (CBA-Austria#389) and at the enterprise level (CBA-Australia#60, CBA-Canada#334).

60 For example, an interprofessional agreement in France, sectoral agreements in the Netherlands and bargaining council agreements in South Africa.

61 For example, at the sectoral level (CBA-Austria#55, CBA-Netherlands#97), and at the enterprise level (CBA-Cambodia#170, CBA-Canada#331, CBA-Indonesia#66, CBA-Indonesia#67, CBA-Indonesia#206, CBA-Singapore#324, CBA-Uganda#183).

62 For example, at the territorial level (CBA-Australia#237, CBA-USA#153) and at the enterprise level (CBA-Australia#213, CBA-Canada#339, CBA-Tanzania#497).

63 For example, at the sectoral level (CBA-Czechia#388), and at the enterprise level (CBA-New Zealand#470, CBA-New Zealand#471, CBA-Republic of Korea#74).

64 For example, at the sectoral level (CBA-Albania#104, CBA-Austria#55, CBA-Austria#390, CBA-Sweden#292) and at the enterprise level (CBA-Denmark#57).

65 At the enterprise level (CBA-Australia#238, CBA-Australia#409).

66 For example, at the sectoral level (CBA-Austria#55, CBA-Denmark#397) and at the enterprise level (CBA-Australia#238, CBA-New Zealand#470, CBA-New Zealand#471).

### ► **Box 3.3 Negotiating job security in Trinidad and Tobago**

In Trinidad and Tobago, collective bargaining takes place predominantly at the enterprise level. Nevertheless, there is some coordination of bargaining by trade unions. For example, most agreements negotiated by the Oilfields Workers' Trade Union include a provision on the regulation of contract work. In these clauses, the employer generally commits not to hire contractors or to outsource work normally performed by employees covered by the collective agreement. If a contract worker is needed on a temporary basis, he or she should be paid at the same rate as the employee performing the corresponding job. Many enterprise-level agreements also include procedural clauses on employment security, whereby the employer commits to consult with the trade union when a reduction of the workforce is envisaged, and to attempt to reassign or transfer employees to another department before terminating their services.

**Sources:** ILO, see Appendix IV; CBA-Trinidad and Tobago#220.

- commitment to engage in social dialogue to discuss the need for temporary workers or subcontracting;<sup>69</sup>
- the conversion of contractual status from temporary to permanent contracts for workers who have worked at an enterprise for a specified period of time;<sup>70</sup>
- capping the number of workers who can be engaged in temporary forms of employment, or specifying the circumstances in which this may be necessary, such as an emergency;<sup>71</sup>
- commitment not to use subcontractors;<sup>72</sup>
- commitment to prevent the lay-off of permanent workers as a result of subcontracting, and to post vacancies internally before jobs are outsourced;<sup>73</sup> and
- temporary contract workers to be paid the same as permanent workers for the same work.<sup>74</sup>

facilitate the changing of jobs.<sup>67</sup> Severance pay is typically based on years of service.<sup>68</sup>

Collective agreements also address the conversion of temporary, part-time and fixed-term contracts into permanent open-ended contracts. The emphasis here is on “regulated flexibility”, that is, on ensuring that enterprises’ need for flexibility to enable them to respond to changing demands is balanced with workers’ need for employment and income security (see box 3.3). The collective agreements analysed include, inter alia, the following provisions:

## 3.5 Work transitions

Technological advances and the “greening” of economies are transforming the world of work. Although these changes open up new opportunities, those who lose their employment as a result (mainly low-skilled workers) are often the least equipped to take on the new jobs created, which may require quite different skill

67 At the enterprise level (CBA-Republic of Korea#74).

68 For example, at the sectoral level (CBA-Czechia#386, CBA-Denmark#397), at the territorial level (CBA-Brazil#280) and at the enterprise level (CBA-Australia#60, CBA-Australia#409, CBA-Australia#466).

69 At the territorial level (CBA-Brazil#280) and at the enterprise level (CBA-Indonesia#66, CBA-USA#276).

70 For example, at the sectoral level (CBA-Republic of Korea#75, CBA-Republic of Korea#98, CBA-Republic of Korea#107, CBA-Republic of Korea#481, CBA-Spain#198) and at the enterprise level (CBA-Australia#406, CBA-Australia#409); and collective agreements in Colombia (see Appendix IV).

71 At the sectoral level (CBA-Finland#202, CBA-Italy#147, CBA-Republic of Korea#480), at the territorial level (CBA-Spain#433) and at the enterprise level (CBA-Italy#51, CBA-Italy#216, CBA-Netherlands#194, CBA-Republic of Korea#69, CBA-USA#275).

72 At the enterprise level (CBA-Canada#329).

73 At the enterprise level (CBA-USA#113).

74 For example, in the Philippines (Appendix IV), at the territorial level (CBA-Brazil#274, CBA-Brazil#280) and at the enterprise level (CBA-Australia#205).

sets.<sup>75</sup> Significant institutional experimentation is taking place, highlighting the role industrial relations actors can play in shaping the ongoing transformations and the transitions these entail (Ferrerias et al. 2020) (see box 3.4). The ways in which collective bargaining has responded to the increase in telework practices during the COVID-19 pandemic are discussed in Chapter 5.

### 3.5.1 Technological transitions

Technological progress has led to notable increases in productivity through the improved use of available resources. At the same time, there are concerns about the effects of technological transitions on employment. While offering new opportunities, work mediated through digital platforms is often associated with heightened economic insecurity (ILO 2021c). There is growing concern over the potential use of new technologies to intensify the monitoring and surveillance of workers, which may have an impact on the quality of work (Edwards, Martin and Henderson 2018; Newman 2017; Levy and Barocas 2018). Algorithm-based decision-making can facilitate more effective monitoring of workers, but it can also have potential discriminatory effects. In platform-mediated work, access to justice for workers whose contracts are terminated as a result of such automated decision-making is a particular cause for concern (Leicht-Deobald et al. 2019; ILO 2021c; Gal, Jensen and Stein 2020). The question is how to seize the opportunities new technologies hold for improvements in productivity and quality while ensuring decent work for workers subject to algorithmic management.

**In bargaining over the introduction or use of new technologies, parties often seek to maximize the gains from investments in technology by smoothing the way for its introduction, while at the same time providing employment security and decent working conditions.**

- ▶ In Germany, in 2020, three industrial unions launched the “Arbeit 2020” project, which is aimed at preparing works councils to participate in shaping technological change associated with Industry 4.0 in a proactive manner, rather than simply reacting to enterprises announcing their intention to relocate jobs or make workers redundant. This experimental approach has led to the conclusion of innovative and highly integrative “Agreements for the Future” in several plants, covering issues such as training, participation in the reorganization of work in response to digitalization, working-time flexibility, measures to safeguard employment, and data protection (Bosch and Schmitz-Kiessler 2020; Haipeter 2020).
- ▶ In Canada, a recent survey of 350 collective agreement provisions found technology-related clauses across a range of sectors. These deal with procedural issues, such as giving notice of technological change, the establishment of technological committees to oversee the introduction of changes, and pledges to conduct negotiations over technological change in good faith. They also cover other aspects that are relevant if restructuring is required, including how to maintain earnings, the possibility of taking on alternative roles, efforts to avoid layoffs, and procedures in the event of redundancies (Stanford and Bennet 2021).

**Just over one third (35 per cent) of the agreements analysed refer to issues related to new technologies.** The agreements include, inter alia, the following provisions in response to and anticipation of technological change:

- ▶ commitment by employers to provide timely notification of technological change and to discuss and/or negotiate over the implementation of change,<sup>76</sup> and the right of trade unions and workers to be informed of or consulted on the introduction of technological change;<sup>77</sup>
- ▶ establishment of a committee tasked with reviewing the implementation of technological change, ensuring that it takes place smoothly and mitigating its effects on workers;<sup>78</sup>

75 In the Global Call to Action for a Human-Centred Recovery from the COVID-19 Crisis That Is Inclusive, Sustainable and Resilient, adopted by the International Labour Conference in June 2021, governments and employers’ and workers’ organizations committed themselves to “leverage the opportunities of just digital and environmental transitions to advance decent work, inter alia through social dialogue, including collective bargaining and tripartite cooperation” (ILO 2021a, para. 11(A)(j)).

76 For example, at the sectoral level (CBA-Portugal#281) and at the enterprise level (CBA-Australia#60, CBA-Australia#238).

77 For example, at the sectoral level (CBA-Denmark#407) and at the enterprise level (CBA-Australia#197, CBA-Canada#334, CBA-Canada#338, CBA-Republic of Korea#74, CBA-Sri Lanka#474).

78 For example, at the sectoral level (CBA-Denmark#407, CBA-South Africa#172).

► **Box 3.4 Collective bargaining: Institutional experimentation in the gig economy**

**United Kingdom**

Enterprise agreement with platform courier services company (2019) includes standard working time, bonus payments and holiday pay for “self-employed plus”. A follow-up agreement in 2021 updates the prior agreement with respect to pay rates (CBA-UK#190).

Enterprise framework recognition agreement (2021) with ride-hailing labour platform sets out procedures for consultation, collective bargaining and union facilities (CBA-UK#402).

**Denmark**

Enterprise agreement with cleaning platform (2018) covers conversion to employee status, hourly wages, social protection and data protection and processing (CBA-Denmark#57).

Enterprise agreement for platform translation workers (2018) sets tariffs and provides for annual adjustments for wage freelancers, data protection and full transparency of rating parameters and algorithms as well

as dispute resolution procedures (CBA-Denmark#189).

Sectoral agreement for food delivery riders (2021) provides for hourly wages, weekly working time, minimum periods for shifts, overtime and night work premiums, parental leave, mileage reimbursement, social protection, PPE, data protection, protections against dismissal, and severance pay (CBA-Denmark#397).

**Germany**

Enterprise agreement with food delivery platform (April 2018) establishes a European Works Council with a provision to have employee representatives on the supervisory board (CBA-Germany#200).

**Norway**

Enterprise agreement with food delivery platform (September 2019) establishes minimum wage rates, winter bonus, reimbursement for equipment and includes pension (CBA-Norway#208).

**Austria**

Sectoral agreement covering bicycle couriers (2020) provides for monthly wage, overtime premium, bonus structure, limits on daily working hours, rest and vacation allowance. It also covers PPE, a mileage allowance and an allowance toward the use of a mobile phone. Provisions for social protection, paternity and maternity leave reflect statutory standards (CBA-Austria#55).

**Spain**

Amendment to the sectoral agreement for hotels and catering sector (2019) specifies that it also applies to the food delivery workers working for digital labour platforms. Regulates wages and working conditions (Rank III) (CBA-Spain#56).

Enterprise agreement with food delivery platform (2021) includes provisions on wages, working time, OSH training, PPE, health checks, accident insurance, gender equality including equal pay and equality of opportunity and treatment, and digital rights (right to disconnect, to privacy, to information on algorithms and data protection) (CBA-Spain#510).

**Switzerland**

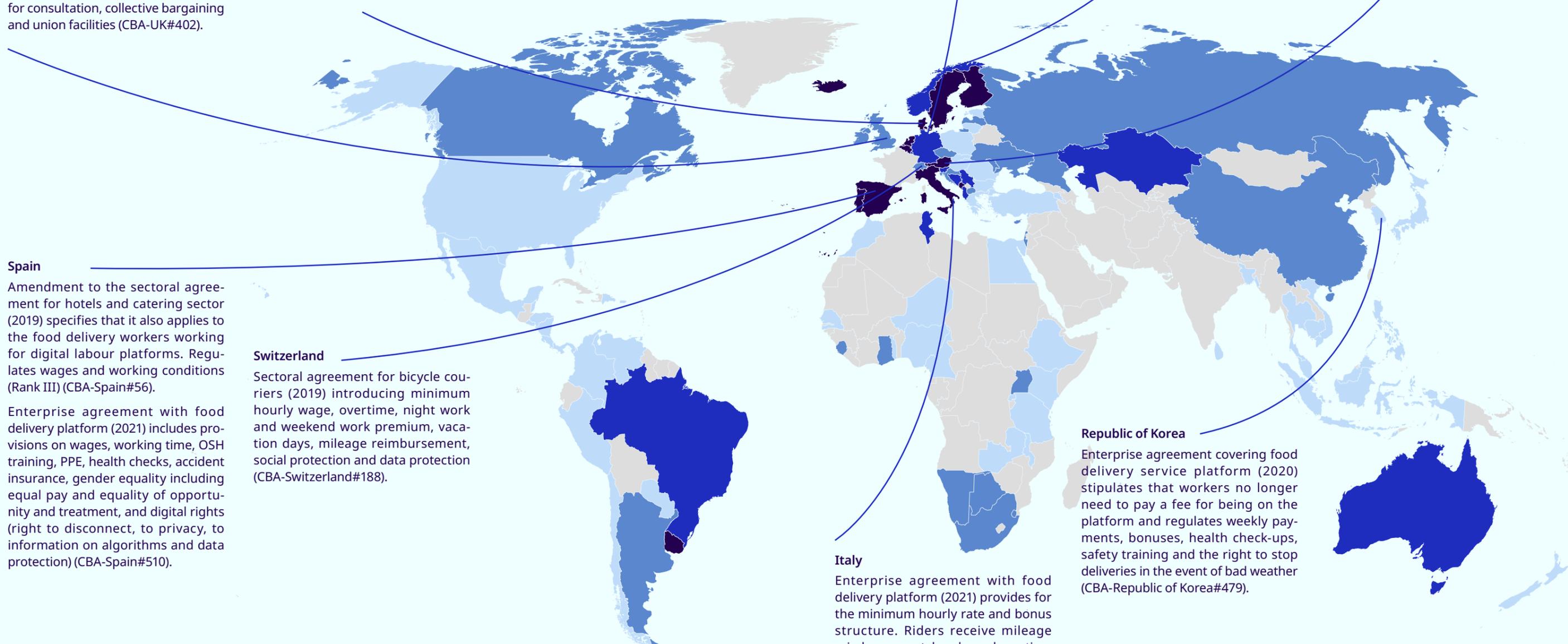
Sectoral agreement for bicycle couriers (2019) introducing minimum hourly wage, overtime, night work and weekend work premium, vacation days, mileage reimbursement, social protection and data protection (CBA-Switzerland#188).

**Italy**

Enterprise agreement with food delivery platform (2021) provides for the minimum hourly rate and bonus structure. Riders receive mileage reimbursement, breaks and overtime banking and premiums. It includes training, PPE and access to accident and life insurance (CBA-Italy#51).

**Republic of Korea**

Enterprise agreement covering food delivery service platform (2020) stipulates that workers no longer need to pay a fee for being on the platform and regulates weekly payments, bonuses, health check-ups, safety training and the right to stop deliveries in the event of bad weather (CBA-Republic of Korea#479).



Map: ILO

Collective bargaining coverage rate (%)  
25 50 75

### Box 3.4 (cont'd)

In recent years, there has been a rapid growth of new work arrangements on digital labour platforms (ILO 2021c). Against a backdrop in which questions concerning the contractual status and collective rights of these workers continue to be brought before the courts in a number of countries (IOE 2021a; Planet Labor 2021), some platform companies, employers' organizations and trade unions are experimenting with collective bargaining as a means of co-regulation. For example, in Austria, employers' organizations signed an agreement in 2020 with the trade union that covers bicycle delivery workers (couriers and food delivery workers). The agreement applies to all employees of delivery platforms. In Denmark, an enterprise agreement for cleaning service platform workers (2018) provides for the conversion of contracts of freelance wage earners who have worked for 100 hours into permanent employment contracts. The enterprise agreement for translation platform workers in Denmark (2018) also applies to freelance wage earners. The sectoral agreement signed in Denmark in the food delivery sector (2021), and the enterprise agreement signed in Norway with a food delivery platform (2019), cover workers employed on part-time contracts. In Italy, a trade union and food

delivery platform agreed to apply the sectoral-level agreement for logistics, transport and shipping (2021) to food delivery workers. The agreement specifies that workers are to perform their work under "open-ended, subordinate employment contracts" and sets a 35:65 ratio for the use of fixed-term and permanent contracts. In the United Kingdom, a framework recognition agreement (2021) was reached at the enterprise level between a trade union in respect of "workers" and a ride-hailing labour platform company. In the Republic of Korea, unions signed a collective agreement at the enterprise level with a food delivery platform on the presumption that these are "workers" as defined in the Trade Union and Labour Relations Adjustment Act. In Spain, the hospitality sectoral agreement was extended by means of a resolution of the Directorate General of Labour (2019) to cover food delivery riders. This was later supplemented by regulations that had been the subject of consultation with the peak-level social partners.<sup>1</sup>

1 Royal Decree-Law No. 9/2021 of 11 May 2021, amending the revised text of the Workers' Statute Act, approved by Royal Legislative Decree No. 2/2015 of 23 October 2015, to safeguard the labour rights of persons engaged in delivery in the field of digital platforms.

### 3.5.1 (cont'd)

- ▶ agreement to functional and geographic mobility in exchange for employment guarantees, with commitments to maintain rates of pay in case of reassignment or reclassification and to additional compensation in case of transfer to a different workplace;<sup>79</sup>
- ▶ establishment of industry frameworks for training, qualification and certification of skills, supporting both the reskilling efforts of enterprises and the mobility of workers affected by the digital transformation of a particular sector's activities;<sup>80</sup>
- ▶ provision of training as part of the transition measures needed to support workers facing redundancy as a result of technological change;<sup>81</sup>
- ▶ guidelines for the implementation of digital systems for time management;<sup>82</sup> and
- ▶ a right to disconnect from devices when outside the working hours.<sup>83</sup>

In their efforts to shape future work practices, some bargaining parties have explicitly committed themselves to the human-centred adoption of technology. For example, in the United Kingdom, an enterprise agreement in postal services (2020) emphasizes that "technology will not be used to de-humanise the workplace or operational decision making". In other instances, bargaining parties have sought to reconcile employers' interest in improving productivity and quality and in monitoring worksites (for security purposes) with workers' right to privacy. For example, in Spain, an agreement in the banking sector includes provisions dealing with workers' awareness of monitoring; the need to obtain their agreement before the installation of cameras, audio recording devices and Global Positioning System equipment; workers' access to records (such as screenshots, videos, audio recordings and geo-location data); and a commitment to protect privacy and data (affirming statutory standards).

79 At the enterprise level (CBA-Canada#334).

80 At the sectoral level (CBA-France#246).

81 For example, at the sectoral level (CBA-Denmark#404, CBA-Denmark#407).

82 At the enterprise level (CBA-France#244).

83 For example, at the territorial level (CBA-Australia#237, CBA-Spain#433) and at the enterprise level (CBA-Italy#358).

As the ability to challenge algorithmic decision-making depends on knowledge of how that process works, the agreement also has provisions on ensuring transparency in the design of algorithms and safeguarding the right to information.<sup>84</sup>

## 3.5.2 Environmental transitions

**In connection with the “greening” of economies, collective agreements have been concluded to support workers during labour market transitions through training, active labour market policies and ongoing processes of social dialogue.<sup>85</sup> Despite the importance of this topic, just under a quarter (23 per cent) of the agreements analysed address environmental transitions.** Although clauses dealing with environmental transitions are more common in agreements in high-income countries, particularly in Europe, they can be found in other regions as well.<sup>86</sup>

- ▶ In Spain, an interprofessional agreement explicitly commits the parties to supporting private–public partnerships that contribute to environmental transitions and generate quality employment.<sup>87</sup>
  - ▶ Innovative sectoral “Employment Transition Agreements” in Sweden address support for job search and placement, along with training, to facilitate the transition to a low-carbon economy. These agreements collectivize the risks associated with unemployment in transitional labour markets (Jansson and Ottosson 2021). A peak-level agreement in the private sector (2019) provides for subsidized studies for employees over the age of 40 who have been made redundant so that they can retrain.<sup>88</sup>
  - ▶ An enterprise agreement in the energy sector in the United States and a Danish sectoral agreement covering nurses in private hospitals both commit the parties to social dialogue on issues pertaining to environmental and related transitions.<sup>89</sup>
- A number of agreements explicitly address the environmental impact of the economic activities carried out by the parties and lay down joint commitments to assess risk and reduce or offset carbon footprints.
- ▶ In the Philippines, an enterprise agreement in the agricultural sector provides for a regular power shutdown during noontime (based on the Earth Hour concept) to reduce manufacturing emissions; proper management and disposal of waste; tree planting; and the cleaning up of coasts.<sup>90</sup>
  - ▶ In Italy, an enterprise agreement in the oil sector contains a pledge to develop carbon capture technology and move to new forms of power generation. The agreement contains specific commitments – for example, to ensure that gas makes up 85 per cent of the upstream portfolio by 2050, much of which is to be used for the production of “blue” hydrogen; to upgrade the refining process, make greater use of municipal solid waste; abandon the use of palm oil by 2023; and to shift to the production of biomethane and recyclable photovoltaic panels.<sup>91</sup>
  - ▶ In Argentina, a collective agreement in the oil industry seeks to strengthen compliance with all environmental legislation, reduce the consumption of natural resources, and promote the recovery and recycling of petroleum products.<sup>92</sup>
  - ▶ In the Republic of Korea, an enterprise agreement in the metal industry commits the parties to maintaining safety, especially with regard to releasing waste and wastewater in accordance with environmental regulations.

84 At the sectoral level (CBA-Spain#326).

85 The [Guidelines for a Just Transition towards Environmentally Sustainable Economies and Societies for All](#) recommend, inter alia, that the social partners “promote the inclusion of specific environmental provisions through collective bargaining and collective agreements at all levels, where appropriate, as a concrete way of facilitating cooperation between employers’ and workers’ organizations and encouraging enterprises to comply with environmental regulations, including but not limited to emission reductions, to meet enterprise objectives regarding sustainability and develop the training of workers and managers” (ILO 2015e, para. 18(d)).

86 For example, at the sectoral level (CBA-Uruguay#454), at the territorial level (CBA-Colombia#393) and at the enterprise level (CBA-Indonesia#206, CBA-Republic of Korea#74).

87 CBA-Spain#422.

88 See the website of the Swedish Council for Negotiation and Cooperation (PTK), <https://www.ptk.se/forhandling-och-avtal/avtal/omstallningsavtal-trr/> (in Swedish only).

89 CBA-Denmark#407 and CBA-USA#113.

90 See Appendix IV.

91 CBA-Italy#446.

92 See Appendix IV.

It explicitly states that the company must reduce their emissions, describing these as “the cause of global warming”.<sup>93</sup> A sectoral agreement in healthcare provides for the creation of joint worker–management crisis response committees within medical institutions. It includes commitments to reducing the waste caused by disposable items (for example, by providing eco-friendly cups); expanding the use of renewable energy in medical facilities; and taking part in training and outreach activities.<sup>94</sup>

# 3.6

## Skills development

**The area of training lends itself to more integrative bargaining. By agreeing to a framework for skills development, employers are able to ensure that the workforce is equipped with skills suited to an enterprise’s needs. They can also use such a framework to address related issues of technological upgrading and multi-skilling. Workers for their part can carve out paths for progression and achieve greater job security** (Heyes and Rainbird 2011). Since collective bargaining can ensure that all workers covered by an agreement have access to training, it also facilitates equal opportunities in skills development. Collective agreements may also

extend these opportunities to categories of workers who may otherwise not enjoy access to training, such as young workers and fixed-term, part-time and temporary contract workers (Heyes and Rainbird 2011).

**Around two thirds (65 per cent) of the agreements analysed refer to skills development.** These agreements include, inter alia, provisions that:

- ▶ establish joint committees at the corporate group and company levels to examine training-related issues and formulate recommendations;<sup>95</sup>
- ▶ set out the responsibilities of employers and workers in relation to skills acquisition, including financing, validation and certification;<sup>96</sup>
- ▶ stipulate a number of days every year that should be spent on training;<sup>97</sup>
- ▶ offer financial support for advanced study<sup>98</sup> or provide funding for professional development;<sup>99</sup> and
- ▶ support reskilling or upskilling when new technology is introduced.<sup>100</sup>

Many agreements also include clauses on apprenticeships and traineeships which:

- ▶ facilitate the integration of apprentices into the workforce once they have completed their training, either by setting targets for recruitment during a given period or by giving apprentices priority when vacancies come up;<sup>101</sup>
- ▶ promote the recruitment of young workers either by providing financial incentives<sup>102</sup> or by ensuring compliance with existing statutory provisions on the hiring of young people;<sup>103</sup>
- ▶ provide for the time spent in apprenticeships and vocational training to be counted towards seniority;<sup>104</sup> and

93 CBA-Republic of Korea#74.

94 CBA-Republic of Korea#108.

95 For example, at the enterprise level (CBA-France#21).

96 For example, collective agreements in Colombia, Côte d’Ivoire, Sri Lanka and Viet Nam (Appendix IV), at the territorial level (CBA-Brazil#280, CBA-USA#235) and at the enterprise level (CBA-France#21).

97 For example, at the sectoral level (CBA-Slovenia#475, CBA-Switzerland#438) and at the enterprise level (CBA-New Zealand#470).

98 For example, at the sectoral level (CBA-Slovenia#475, CBA-Switzerland#438) and at the enterprise level (CBA-Brazil#278, CBA-New Zealand#470).

99 For example, at the sectoral level (CBA-Sweden#300) and at the enterprise level (CBA-Canada#336, CBA-Chile#223, CBA-Colombia#87), and collective agreements in the Philippines (Appendix IV).

100 Appendix IV and at the interprofessional level (CBA-Senegal#196).

101 For example, at the enterprise level (CBA-France#21, CBA-France#54).

102 For example, at the interprofessional level (CBA-Senegal#196) and at the territorial level (CBA-Brazil#267).

103 For example, at the territorial level (CBA-Colombia#393).

104 For example, at the sectoral level (CBA-Denmark#94, CBA-Finland#109) and at the enterprise level (CBA-France#21).

- ▶ ensure that apprentices receive equal treatment with other workers.<sup>105</sup>

Collective agreements may also establish systems for the certification of skills (see box 3.5). For example, an industry-wide agreement in the

financial sector in France provides for workers without a diploma or professional title to have the opportunity to participate in a work/study programme aimed at obtaining a “Professional Qualification Certificate”.<sup>106</sup>

### ▶ **Box 3.5 Partnering for investment and reskilling in the automobile sector in South Africa**

The automotive industry in South Africa consists of 22 companies involved in the production of cars and commercial vehicles. These include 7 major vehicle manufacturers, referred to as original equipment manufacturers (OEMs), and an additional 15 companies involved in the import and distribution of new motor vehicles. The sector contributes 6.4 per cent to the country’s gross domestic product, accounts for 27.6 per cent of manufacturing output and 15.5 per cent of total exports. It employs more than 112,500 people throughout the value chain.

Direct employment at the seven OEMs amounts to 30,250 employees. These OEMs, all multinational enterprises, are represented by the Automobile Manufacturers Employers Organization and, together with the National Union of Metal Workers of South Africa, constitute the bargaining parties at the National Bargaining Forum for the Automobile Industry (NBF). This is not a bargaining council as provided for in the Labour Relations Act (Act No. 66 of 1995) but a bargaining forum, which means that the collective agreements are only binding on the OEMs that are parties to the NBF. There is a high degree of trust between the NBF parties, as evidenced by the way in which wage agreements are reached for a number of years at a time, without resort to industrial action. The monitoring of compliance with the terms of agreements is carried out by the NBF parties.

The NBF parties participate in various policy forums together with the Government. In this way, they have been able to build up a relationship supporting the longer-term development of the sector. Collectively, the seven OEMs committed themselves to investing 39 billion South African rand in the sector over a five-year period starting in 2019. The digitization and manufacturing of electric vehicles necessitates reskilling of the current and future workforce. The investment of the OEMs in the sector is supported by the Department of Trade, Industry and Competition. A South African Automotive Masterplan (SAAM), jointly developed by stakeholders in the automotive value chain, including the Government, industry and organized labour and launched in 2018, provides the current policy framework for the sector. One of the six pillars of the SAAM focuses on technological upgrading and associated skills development. To advance the implementation of the SAAM, the parties agreed to a multi-skilling framework aimed at developing broad generic skills, as opposed to narrow task-based competencies, so as to enable enterprises and workers to adapt to changing demands. A certification process is included for each level of skill development, such as the Level 7 multi-skilled artisan certificate.

**Sources:** ILO, see Appendix IV; Monaco et al. (2001); and National Association of Automobile Manufacturers of South Africa website, <https://naamsa.net>.

<sup>105</sup> At the enterprise level (CBA-France#21, CBA-Republic of Korea#74).

<sup>106</sup> CBA-France#246.

# 3.7

## Equality, diversity and inclusion

In recent years, the scope of collective agreements in many countries, sectors and enterprises has expanded to address inequality and exclusion in labour markets. The most prominent initiatives in this regard have to do with commitments to equal pay for equal work; the balancing of care responsibilities and work; addressing violence and harassment at work; eliminating discrimination; ensuring equality of opportunity and treatment; and promoting inclusive labour protection (to cover, for example, migrant workers and indigenous persons). **Collective agreements reflect a joint commitment by employers (and their organizations) and trade unions to pursue gender equality, diversity and inclusion.**

### 3.7.1 Gender equality

There are three broad ways in which the collective agreements reviewed seek to promote gender equality. The first is through approaches to collective wage-setting that tackle the gender pay gap. The second is through clauses addressing work-family conflicts (for men and women), including parental and other family leave. The third is through clauses that focus on gender-based violence and harassment at work. **Well over half of the agreements analysed (59 per cent) include provisions on gender equality.**

#### Equal pay for work of equal value

There is evidence that centralized collective bargaining compresses wage structures and reduces the gender pay gap (Blau and Kahn 2003). Indeed, recent studies have found that a shift away from collective bargaining (in the public sector) to flexible pay-setting through individual bargaining is associated with an increase in the gender pay gap (Biasi and Sarsons 2022). Collective bargaining is also an effective way of tackling some of the unexplained “structural” inequalities,<sup>107</sup> such as the systematic undervaluation of women’s work and the “motherhood penalty” (ILO 2018e). To that end, collective agreements may commit the parties to the principle of equal pay for work of equal value, or they may establish frameworks for revaluing work in sectors or occupations where women predominate (see box 3.6).

#### ► Box 3.6 New Zealand: Revaluing social care

In the New Zealand care sector, long-term residential care is provided mainly by certified private entities, while home care services are provided by a mix of public, private and not-for-profit organizations. Public funding is critical for both types of care. Dependency on government funding by private entities operating in the long-term residential care sector has constrained the capacity of these employers to negotiate increases in wages.

The 2017 Pay Equity Agreement was preceded by a long-standing campaign in the sector to raise awareness of the gendered undervaluation of the aged-care workforce. Court rulings were issued in two prominent cases, one in 2014 that allowed travel time to be considered and paid as work, and a second in 2016 that guaranteed minimum daily and weekly hours for care workers. The union acting on behalf of a care worker brought another claim before the Employment Court, arguing that their pay was lower than it would have been if the workforce were male-dominated. Negotiations between the Government and the union resulted in an out-of-court settlement.

The Pay Equity Agreement was passed unanimously in June 2017 and 55,000 care and support workers received pay increases of between 15 and 50 per cent, depending on their qualifications and experience, and a 21 per cent increase was given for those on the minimum wage. The Agreement covers a five-year period and includes funding for training to support a better-qualified workforce and pay progression. The parties to the Agreement are key state

<sup>107</sup> The unexplained part of the gender pay gap is the part that cannot be attributed to characteristics such as education (ILO 2018e).

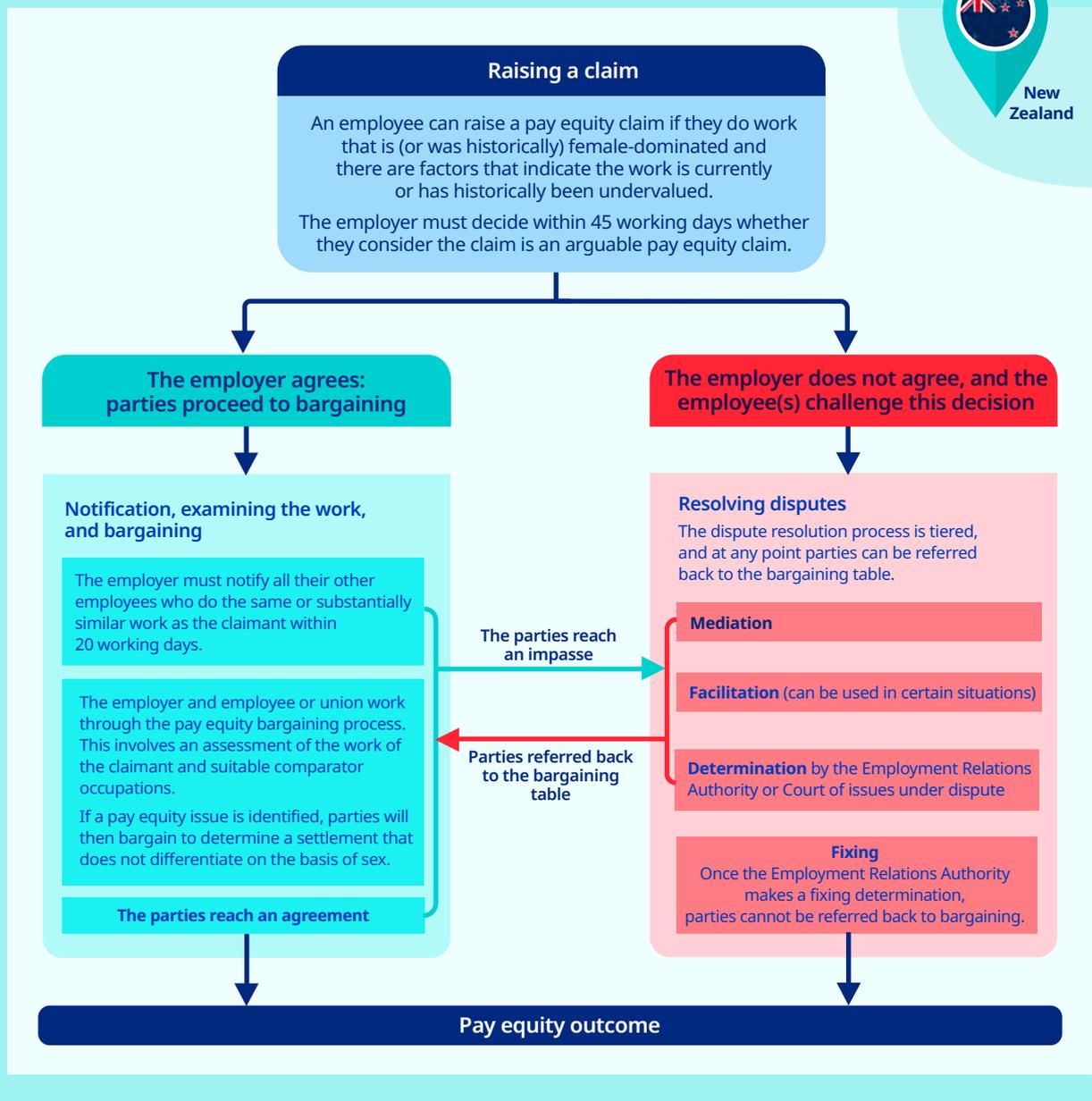
## Box 3.6 (cont'd)

fundness of social care at the national and regional level and three trade unions from the sector; the Council of Trade Unions signed up as an interested party. Three employers' associations were represented but are not parties to the agreement. The Agreement is underpinned by a funding increase of 2 billion New Zealand dollars to deliver pay equity in the sector. However, despite welcoming the increase in funding, some employers still consider it to be insufficient and have introduced changes in work organization in an effort to reduce costs.

The Equal Pay Amendment Act 2020, which came into force in November 2020, distinguishes between equal pay claims (concerning gender inequalities in pay for the same or similar work) and pay equity claims (concerning gender inequalities in pay for work that is different, but of equal value), and sets out the process for submitting a pay equity claim. The Act allows for the filing of claims on an individual or collective basis and encourages collective representation and collective bargaining as a means to settle pay equity claims.

Several pay equity agreements were concluded between 2017 and 2020, and at the time of writing, four such agreements were being negotiated, including agreements for nurses, midwives, workers in allied, scientific and technical roles, and clerical employees. Two in-principle agreements have been negotiated, dealing with nurses and clerical workers, and are expected to be finalized in 2022. In 2021, the Government announced a period of pay restraint for public sector workers to rebalance public finances. However, care support workers' pay is protected as a result of exemptions for the low-paid and the ring-fencing of pay equity wage increases.

► Figure 3.4 Raising a pay equity claim in New Zealand



Other practices include the provision of above-average wage increases for low-paid female-dominated occupations (Müller 2019; Grimshaw 2009). Sectoral agreements in Finland, Norway and Sweden include “equality allowances” to address the gender pay gap, while in Austria, the “distribution option” in agreements pursues that aim, among others (Glassner and Hofmann 2019; Pillinger and Wintour 2019). A longitudinal study of collective agreements and unilateral plans in ten companies based in the Eurometropolis of Strasbourg (France) between 2013 and 2018 highlights the evolution of enterprise-level bargaining in response to legislative reforms aimed at advancing professional equality between men and women (Bucher et al. 2021). Enterprises that were merely responding to legislative imperatives produced relatively *pro forma* agreements, which they replicated in successive negotiations. In contrast, enterprises that had already taken measures to promote professional equality prior to the reforms enshrined these good practices in collective agreements. Moreover, the form of the agreements evolved and the quality deepened as a result of the learning effects of the negotiation process.

## Gender, maternity protection, parental and family leave

Going beyond wages, an increasing number of collective agreements deal with work–family issues, including parental leave and maternity protection (Baird and Murray 2014; Julén Votinius 2020). Such agreements can play an important role in addressing the motherhood penalty and

the “care risk” associated with the potential loss of income due to care obligations (Schiek 2020). Chapter 5 highlights the critical role played by collective bargaining in balancing work and care responsibilities during the COVID-19 crisis and mitigating its potential effects on inequality. Relevant clauses in the agreements reviewed provide for:

- ▶ paid leave for employees undergoing assisted reproductive treatments or other fertility treatments;<sup>108</sup>
- ▶ protections against dismissal in the event of pregnancy;<sup>109</sup>
- ▶ special accommodations for pregnant workers;<sup>110</sup>
- ▶ paid maternity leave;<sup>111</sup>
- ▶ additional unpaid leave from the beginning of pregnancy to the 24th week after birth;<sup>112</sup>
- ▶ a “birth allowance” for mothers;<sup>113</sup>
- ▶ use of paid maternity leave in case of miscarriage;<sup>114</sup>
- ▶ private space and separate time for breast-feeding or expressing breast milk<sup>115</sup> or a breastfeeding allowance;<sup>116</sup>
- ▶ parental leave<sup>117</sup> and paid paternity leave;<sup>118</sup>
- ▶ consultation rights for workers on parental leave, ensuring that they have the opportunity to discuss changes in the workplace proposed during their absence;<sup>119</sup>

108 For example, at the territorial level (CBA-Australia #237) and at the enterprise level (CBA-Republic of Korea#69).

109 For example, at the interprofessional level (CBA-Senegal#196), at the sectoral level (CBA-Italy#173, CBA-Togo#468) and at the territorial level (CBA-Brazil#267, CBA-Brazil#274).

110 For example, at the sectoral level (CBA-Czechia#388, CBA-Spain#326, CBA-Spain#434, CBA-Slovenia#475, CBA-Togo#468), at the territorial level (CBA-Brazil#267, CBA-Spain#433) and at the enterprise level (CBA-Canada#334, CBA-China#427, CBA-Brazil#162, CBA-Spain#425).

111 For example, at the sectoral level (CBA-Denmark#404, CBA-Finland#109, CBA-India#498), at the territorial level (CBA-Canada#81) and at the enterprise level (CBA-Australia#60, CBA-Bangladesh#499 – funding unspecified, CBA-Cambodia#170 – funding unspecified, CBA-Canada#329, CBA-Chile#248, CBA-China#427, CBA-Tanzania#497).

112 At the enterprise level (CBA-Canada#334).

113 At the enterprise level (CBA-Mexico#103).

114 For example, at the sectoral level (CBA-India#498, CBA-Uganda#311), and at the enterprise level (CBA-Australia#197, CBA-Brazil#162, CBA-Colombia#87, CBA-Indonesia#417, CBA-Uganda#183). Some of these agreements also specify the possibility to use such leave in the case of an abortion.

115 For example, at the sectoral level (CBA-Spain#326), at the territorial level (CBA-Australia#237) and at the enterprise level (CBA-Cambodia#170, CBA-Colombia#87, CBA-Morocco#354, CBA-Republic of Korea#69, CBA-Singapore#324, CBA-Tanzania#497).

116 For example, at the enterprise level (CBA-Colombia#269).

117 For example, at the sectoral level (CBA-Austria#389, CBA-Denmark#404), at the territorial level (CBA-USA#235) and at the enterprise level (CBA-Canada#331, CBA-Canada#341, CBA-USA#273).

118 For example, collective agreements in Argentina (Appendix IV), at the interprofessional level (CBA-Senegal#196), at the sectoral level (CBA-Denmark#404, CBA-India#498, CBA-Togo#468) and at the enterprise level (CBA-Colombia#87, CBA-Tanzania#497, CBA-Trinidad and Tobago#220, CBA-Uganda#183 – funding unspecified).

119 At the territorial level (CBA-Australia#237). See also, at the enterprise level, CBA-Australia#238 for a similar provision on consultation rights during parental leave.

- ▶ institutional support (for example, a crèche on company premises), or allowances to employ care workers to provide care services;<sup>120</sup>
- ▶ time off if a child falls sick or for participation in school meetings;<sup>121</sup> and
- ▶ time off or working-time flexibility to accommodate care responsibilities towards family members with long-term care needs, including those who have been hospitalized, suffer from a physical or mental disability, or are terminally ill.<sup>122</sup>

A number of agreements also include language to ensure that parental allowances are inclusive of all families, beyond traditional male–female partnerships. For instance, in an enterprise agreement in the mining sector in Colombia, access to parental leave is explicitly recognized for same-sex parents.<sup>123</sup> A provincial agreement in the public sector in Canada includes non-biological caregivers of a newborn, such as adoptive parents, in the provisions on parental leave.<sup>124</sup>

To promote inclusive workplaces, collective agreements may also address support during menstruation and leave for transgender persons undergoing treatment. Relevant clauses in the agreements reviewed provide for:

- ▶ menstrual hygiene support by ensuring the provision of sanitary pads to workers who need them<sup>125</sup> and allowing menstrual leave of 1–2 days to be taken at the worker’s discretion;<sup>126</sup> and
- ▶ leave of absence for transgender persons undergoing medical procedures or hormonal therapy.<sup>127</sup>

## Eliminating violence and harassment at work

Collective agreements may seek to tackle the disproportionate effects of violence at work on women (Pillinger and Wintour 2019). Many include broad commitments to address gender-based violence and sexual harassment in the workplace. The collective agreements reviewed:

- ▶ provide definitional clarification of what constitutes sexual harassment – for example, “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature”;<sup>128</sup>
- ▶ include protocols to guide behaviour, prevent sexual harassment and raise awareness through training;<sup>129</sup>
- ▶ commit workers and managers to participating in the investigation of complaints about workplace harassment;<sup>130</sup>
- ▶ provide for the creation of committees to assist the victims of gender-based violence by coordinating measures to facilitate their access to social, legal, medical, psychological and economic support;<sup>131</sup>
- ▶ provide for the use of surveillance through closed-circuit television to prevent sexual violence on company premises;<sup>132</sup> and
- ▶ declare support for the ratification of the Violence and Harassment Convention, 2019 (No. 190), to help combat gender-based violence in the workplace.<sup>133</sup>

A few enterprise-level agreements guarantee 5 to 20 days of paid leave for victims of domestic abuse.<sup>134</sup> Other clauses provide for changes in work schedules, location and times to improve the safety of employees or reduce working time.

120 For example, at the enterprise level (CBA-Cambodia#170, CBA-Chile#221, CBA-Chile#248, CBA-Chile#450, CBA-France#24, CBA-India#59, CBA-USA#469).

121 For example, at the sectoral level (CBA-Denmark#404) and at the territorial level (CBA-Brazil#267, CBA-Canada#81).

122 For example, at the sectoral level (CBA-Senegal#511, CBA-Spain#434).

123 For example, at the enterprise level (CBA-Colombia#87).

124 For example, at the territorial level (CBA-Canada#81).

125 For example, at the territorial level (CBA-Brazil#286).

126 For example, at the territorial level (CBA-Viet Nam#82) and at the enterprise level (CBA-India#59, CBA-Indonesia#417, CBA-Japan#342, CBA-Republic of Korea#74, CBA-Republic of Korea#110).

127 For example, at the sectoral level (Argentina, source: [Government of Argentina](#)); at the territorial level (CBA-Australia#237).

128 At the enterprise level (CBA-USA#242).

129 For example, at the sectoral level (CBA-Portugal#281, CBA-Republic of Korea#482) and at the territorial level (CBA-Viet Nam#71).

130 For example, at the sectoral level (CBA-Republic of Korea#482) and at the territorial level (CBA-Viet Nam#71).

131 At the sectoral level (CBA-Argentina#148).

132 At the enterprise level (CBA-Republic of Korea#69).

133 At the sectoral level (CBA-South Africa#251).

134 For example, at the territorial level (CBA-Australia#237, CBA-Spain#433) and at the enterprise level (CBA-Canada#341, CBA-New Zealand#470, CBA-New Zealand#471).

A sectoral agreement covering private care workers in Italy provides for female workers to take special leave from work for up to three months if they are faced with gender-based violence in the workplace; the period of leave is covered by social security.<sup>135</sup>

## 3.7.2 Diversity and inclusion

**Collective bargaining can be an important tool for eliminating discrimination and fostering diversity in the workplace. Almost two thirds (62 per cent) of the agreements reviewed include clauses aimed at fostering diversity and inclusion.** This includes clauses prohibiting discrimination on the basis of race, colour, sex, religion, ethnicity, disability, HIV status, sexual orientation and gender identity, among others. Collective agreements may set out explicit commitments guaranteeing equality of opportunity and treatment, for example, by specifying actions to support women and workers from minority groups when it comes to recruitment and promotion.<sup>136</sup> Some agreements also include provisions on reasonable accommodation for persons with disabilities, including in hiring, adaptations in working time arrangements and the working environment, and assignment to work duties that may be better suited to these workers.<sup>137</sup>

To foster inclusion, collective agreements may also contain clauses guaranteeing special leave for workers to attend various religious and spiritual events (Hunter and Gray 2013). Some of

the agreements reviewed in Australia, Canada and New Zealand specifically extend to indigenous persons such a right to leave for the attendance of ritual events or ceremonies.<sup>138</sup>

Another dimension of diversity and inclusion is age: both young and older workers may face direct and indirect forms of discrimination. In addition to the clauses on apprenticeships discussed earlier, the collective agreements reviewed include provisions that:

- ▶ facilitate young people's entry into the labour market through mechanisms such as open-house events, apprenticeship programmes, workshops for young graduates and the extension of hiring opportunities to those engaged in work/study programmes;<sup>139</sup>
- ▶ ensure predictable working time for young people to allow them to complete their studies, protect them against arbitrary lay-offs and replacement by other student employees, and provide them with a decent first salary;<sup>140</sup>
- ▶ call for the expansion of vocational training targeted at young people;<sup>141</sup> and
- ▶ focus on employment stability for the ageing workforce, bearing in mind the difficulties faced by older employees if they are made redundant.<sup>142</sup>

Collective agreements can also provide inclusive protection to migrant workers (see box 3.7). Clauses specific to migrant workers provide for the translation of important policies and documents into their own language and deal with requirements related to visas and immigration status.<sup>143</sup>

135 CBA-Italy#173.

136 For example, at the sectoral level (CBA-Portugal#281, CBA-Republic of Korea#480, CBA-Spain#326, CBA-Uruguay#454), at the territorial level (CBA-Canada#81) and at the enterprise level (CBA-Bangladesh#499, CBA-Canada#341, CBA-Netherlands#194, CBA-Spain#429, CBA-Spain#510).

137 For example, at the sectoral level (CBA-Denmark#397, CBA-Finland#109, CBA-Jordan#431, CBA-Slovenia#475).

138 For example, at the sectoral level (CBA-New Zealand#171), at the territorial level (CBA-Australia#237, CBA-Canada#81) and at the enterprise level (CBA-Australia#238).

139 For example, at the sectoral level (CBA-Denmark#397, CBA-France#246) and at the enterprise level (CBA-France#3, CBA-France#21).

140 For example, at the sectoral level (CBA-Slovenia#475), at the territorial level (CBA-Brazil#267) and at the enterprise level (CBA-France#21).

141 At the sectoral level (CBA-Republic of Korea#484).

142 For example, at the sectoral level (CBA-Denmark#397, CBA-Switzerland#441).

143 For example, at the enterprise level (CBA-Cambodia#170, CBA-USA#485).

► **Box 3.7 Collective bargaining and migrant workers in the Jordanian garment sector**

The Jordanian garment industry is a critical source of exports for the country, accounting for 22 per cent of the value of total exports. It employs 65,000 workers, of whom roughly 75 per cent are international migrants from South and South-East Asia, and approximately 75 per cent are women. While there are still restrictions on the eligibility of migrant workers to hold trade union positions, the General Trade Union of Workers in Textile, Garment and Clothing Industries and the Jordan Garment, Accessories and Textiles Exporters' Association have successfully negotiated a series of sector-wide collective agreements.

The first agreement was negotiated in 2013, covering some 55,000 workers in the garment sector. In 2014, an addendum to the agreement committed the parties to gradually eliminating, over a three-year period, discriminatory practices in the calculation of overtime and benefits for migrant workers in the sector. Employers agreed to include in-kind wages when calculating overtime wages and other benefits for migrant workers. The second collective agreement in 2015 included guidelines for the implementation of a Unified Contract for migrant garment workers. This was a landmark initiative aimed at tackling non-compliant terms and conditions in the employment of migrant workers. In March 2017, a third agreement was negotiated, which provided for incremental increases in wages over two years for both Jordanian and migrant workers. It also introduced the use of a Unified Contract for Refugees when hiring workers with refugee status. Concerns were raised at the time about the transparency and conduct of the negotiation process.

As a result, negotiations for the fourth collective agreement involved inclusive consultation workshops with workers and featured the representation of seven nationalities among migrant workers. Reflecting the growing maturity of labour relations in the sector, the scope of the fourth agreement, concluded in 2019, is broader and includes clauses reiterating compliance with additional elements of labour law and addressing new areas not covered by legislation. It provides for annual salary increases, promotes the mental well-being of workers, and seeks to prevent violence and harassment in factories. In particular, employers are required to have by-laws addressing violence and harassment. This last provision was a major step forward for the industry and for Jordan, serving as an early example of how the Violence and Harassment Convention, 2019 (No. 190), can be put into practice. As regards social protection, the agreement reiterates the application of the provisions of the Social Security Act and its amendments and of the implementing regulations.

The union conducts regular training for workers on key provisions of the collective agreement. According to survey data gathered in July 2020, half of the workers in the sector are familiar with the agreement and its contents, and another 15 per cent are familiar with the agreement but not its contents. Migrant workers are more likely than their Jordanian colleagues to be familiar with the provisions in the collective agreement. The ILO and Better Work Jordan are working together to promote compliance with the agreement.

**Source:** ILO.



# 3.8

## Sound industrial relations

**One of the principal ways in which collective agreements ensure sound labour relations is through the inclusion of clauses that guide and regulate collective labour relations.** Some employers regard collective agreements as an effective means of maintaining stability and labour peace. To that end, a number of collective agreements include “peace clauses”, in which the parties agree to refrain from making additional claims during the period covered by the agreement, thereby endowing collective labour relations with considerable stability and facilitating sound industrial relations. As far as trade unions are concerned, these clauses can help to ensure recognition of their legitimacy as representatives of workers, in addition to fostering transparent and predictable “rules of the game”. **A large proportion (78 per cent) of the collective agreements analysed set out a framework for collective labour relations.**

In some countries, the parties sign recognition agreements, affording recognition to a trade union (or unions) as the properly constituted and legitimate representative of workers. Clauses in recognition agreements range from simple declaratory statements of recognition to comprehensive clauses laying down the rights of trade unions and employers, the recognition of elected local union representatives and a commitment to sound industrial relations.<sup>144</sup> Reflecting the industrial relations context at the enterprise level, some collective agreements include clauses recognizing trade unions as the representative of workers<sup>145</sup> including as the sole bargaining agent.<sup>146</sup>

Collective agreements may also include clauses to prevent discrimination against trade union members<sup>147</sup> and reiterate the right of workers to freely join a trade union.<sup>148</sup> Some agreements stipulate that trade unionists may not be dismissed without just cause<sup>149</sup> and contain clauses relating to the employment stability of trade union leaders.<sup>150</sup>

Collective agreements may also focus on equal opportunity, for example with regard to career progression or access to training.<sup>151</sup> In some instances, agreements include provisions reiterating the right of temporary contract workers to join a trade union.<sup>152</sup>

Collective agreements frequently establish codes of conduct and support for trade union administration. Such facilitation clauses typically cover:

- ▶ the right of trade unions to enter the workplace, provided that this does not interfere with regular work;<sup>153</sup>

144 For example, the right of trade union representatives to participate in the works council or intercompany committee (at the sectoral level: CBA-Slovenia#475; and at the enterprise level: CBA-Spain#425), the recognition of elected local union representatives by the employer (at the enterprise level: CBA-Colombia#87, CBA-Mexico#231, CBA-New Zealand#471, CBA-Portugal#270, CBA-USA#242).

145 For example, at the sectoral level (CBA-Republic of Korea#483) and at the enterprise level (CBA-Cambodia#170, CBA-Canada#334, CBA-Trinidad and Tobago#220).

146 For example, at the enterprise level (CBA-Canada#334, CBA-Republic of Korea#74).

147 For example, at the interprofessional level (CBA-Albania#105, CBA-Senegal#196), at the sectoral level (CBA-Albania#104, CBA-Slovakia#380, CBA-Spain#326, CBA-Togo#468) and at the enterprise level (CBA-Canada#336, CBA-Colombia#87, CBA-Republic of Korea#110, CBA-USA#113, CBA-USA#268).

148 For example, at the interprofessional level (CBA-Senegal#196), at the sectoral level (CBA-Republic of Korea#483, CBA-Switzerland #439) and at the enterprise level (CBA-Colombia#87, CBA-Republic of Korea#479).

149 For example, at the interprofessional level (CBA-Senegal#196), at the sectoral level (CBA-Denmark#397, CBA-Lithuania#41, CBA-Switzerland#438, CBA-Switzerland#440, CBA-Switzerland#483, CBA-Togo#468), at the territorial level (CBA-USA#235) and at the enterprise level (CBA-Colombia#87).

150 At the territorial level (CBA-Brazil#286).

151 At the enterprise level (CBA-France#245).

152 For example, at the sectoral level (CBA-Togo#468) and at the enterprise level (CBA-Republic of Korea#74).

153 For example, at the sectoral level (CBA-Czechia#388, CBA-Slovakia#380, CBA-Slovenia#475, CBA-Slovenia#476), at the territorial level (CBA-Brazil#280) and at the enterprise level (CBA-Australia#60, CBA-France#24, CBA-New Zealand#470, CBA-New Zealand#471, CBA-Sri Lanka#473, CBA-USA#242, CBA-USA#268, CBA-USA#276).

- ▶ information and dissemination rights;<sup>154</sup>
- ▶ the provision of facilities for holding meetings;<sup>155</sup>
- ▶ paid time off work for trade union representatives to attend general union activities<sup>156</sup> and for workers to attend union activities;<sup>157</sup>
- ▶ paid leave for workers to attend union-related educational activities;<sup>158</sup>
- ▶ commitments by employers to provide information about newly hired employees to the trade union and how to contact them;<sup>159</sup> and
- ▶ check-off arrangements for union dues.<sup>160</sup>

*In conclusion, the scope of collective agreements – in terms of both the topics addressed and how these are addressed – can make a significant contribution to the inclusive and effective*

*governance of work. First, collective agreements can facilitate the tailoring of regulatory solutions to meet specific industry, enterprise and worker needs. In some cases, the social partners can also develop new regulatory approaches to deal with emerging issues. Second, provisions in collective agreements can supplement social protection systems. Third, collective agreements can reinforce norms in statutory provisions dealing with key areas such as OSH. Fourth, collective agreements can help to reduce earnings inequality, foster gender equality and promote the inclusion of women, young people, migrant workers and other vulnerable categories of workers. Finally, collective agreements can strengthen compliance with laws and regulations, allowing labour administration bodies to devote their often scarce resources to other important tasks or sectors.*

154 For example, the right to use the company's notice board, and having the notice board in a suitable location (at the inter-professional level: CBA-Senegal#196, CBA-USA#459; at the sectoral level: CBA-Czechia#388, CBA-Lithuania#41, CBA-Togo#468; at the territorial level: CBA-Brazil#267; and at the enterprise level: CBA-Australia#60, CBA-Portugal#270, CBA-Republic of Korea#69, CBA-Republic of Korea#74, CBA-Spain#428, CBA-USA#113, CBA-USA#242, CBA-USA#268); access to photocopying equipment, fax and/or email (at the interprofessional level: CBA-Senegal#196; at the enterprise level: CBA-Australia#60, CBA-Canada#344, CBA-France#245); and the right to receive information (at the sectoral level: CBA-Republic of Korea#482, CBA-Slovenia#475, CBA-Slovenia#476, CBA-Switzerland#438).

155 For example, at the sectoral level (CBA-Czechia#388, CBA-Finland#179, CBA-Finland#180, CBA-Portugal#281) (meetings only outside working hours), at the territorial level (CBA-Republic of Korea#74) (notification required if the meeting is during working hours) and at the enterprise level (CBA-Portugal#270) (during working hours).

156 For example, at the interprofessional level (CBA-Senegal#196), at the sectoral level (CBA-Slovenia#475, CBA-Slovenia#476, CBA-South Africa#251, CBA-Sri Lanka#472, CBA-Togo#468, CBA-Uruguay#454) and at the enterprise level (CBA-New Zealand#470, CBA-Spain#428, CBA-Trinidad and Tobago#220).

157 For example, at the sectoral level (CBA-Czechia#388) and at the enterprise level (CBA-Australia#60, CBA-Colombia#87, CBA-New Zealand#470, CBA-New Zealand#471).

158 For example, at the sectoral level (CBA-Denmark#397, CBA-Finland#109, CBA-Republic of Korea#482, CBA-Slovenia#475, CBA-Slovenia#476, CBA-Togo#468), at the territorial level (CBA-Brazil#280, CBA-Brazil#286) and at the enterprise level (CBA-Australia#60, CBA-Colombia#87, CBA-New Zealand#470, CBA-Republic of Korea#69).

159 For example, at the territorial level (CBA-Brazil#280) and at the enterprise level (CBA-New Zealand#470, CBA-Trinidad and Tobago#220).

160 Check-off provisions enable the employer to deduct union dues from a worker's pay and remit these to the union if the worker has agreed to such a deduction. For example, at the sectoral level (CBA-Sri Lanka#472), at the territorial level (CBA-USA#235) and at the enterprise level (CBA-New Zealand#470, CBA-New Zealand#471, CBA-Sri Lanka#474).



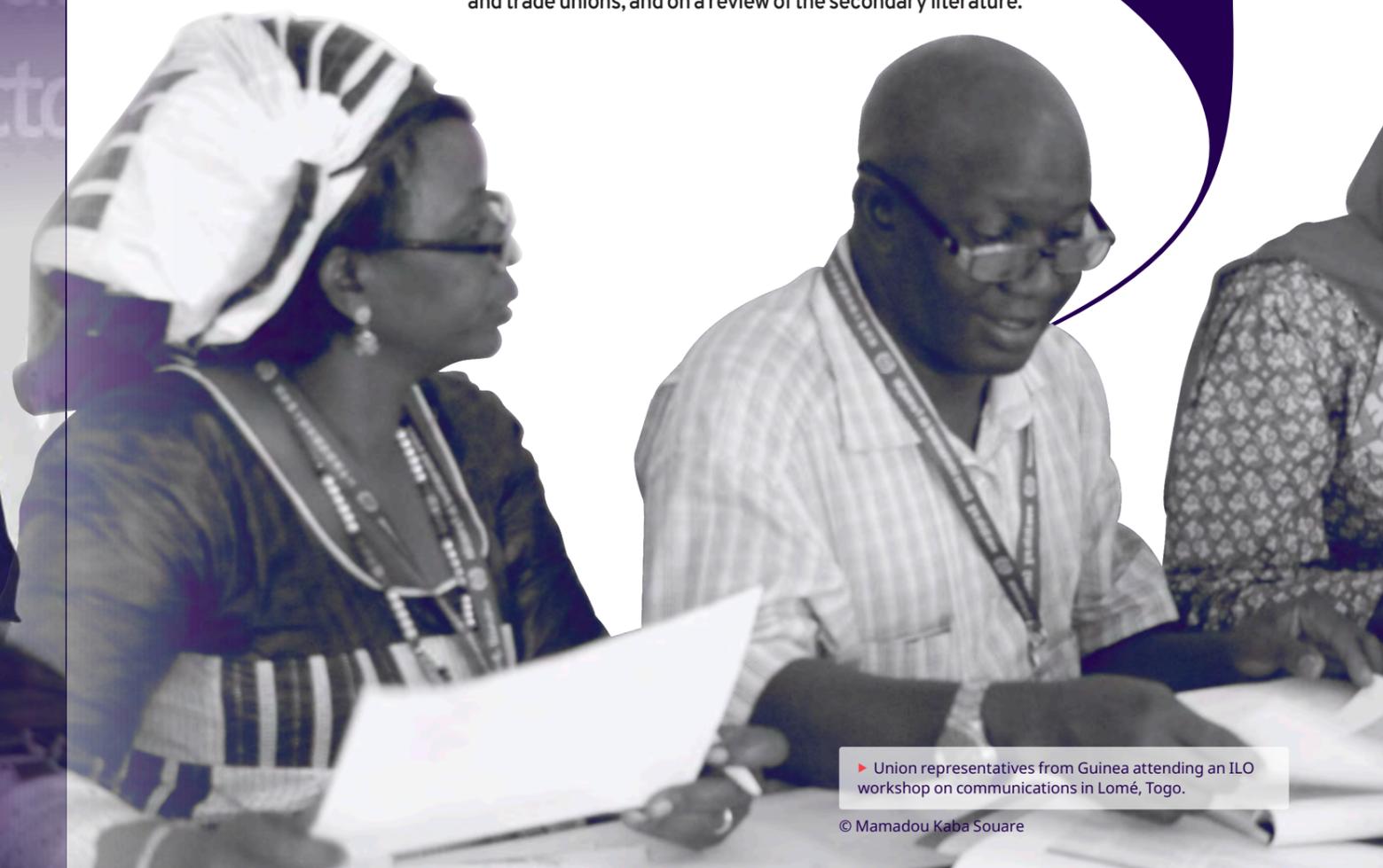
# Employers' organizations and trade unions: Restructuring and renewal

Employer and business membership organizations (EBMOs) and trade unions are the primary actors in labour markets, representing the interests of their members (enterprises or workers) in relation to a range of social and economic policies, including the governance of collective bargaining and the scope of such bargaining. The roles played by EBMOs and trade unions in collective bargaining encompass the shaping of the regulatory environment and policies, coordination of bargaining processes, the provision of relevant services for their members and – depending on the national context – the negotiation of collective agreements. They are also key players in the international normative framework that gives effect to the fundamental principles and rights at work, including freedom of association and the effective recognition of the right to collective bargaining. Their representativeness is crucial both in terms of how effectively they can represent organized interests in social dialogue, including collective bargaining, and in terms of the legitimacy of the outcomes of such dialogue. In view of the transformations that are under way in the world of work, the organizational capacity of EBMOs and trade unions – as reflected in membership, structure and services – has been evolving. This chapter examines their representational function, their responses to the transformations under way in the world of work and the prospects for restructuring and renewal. It is based on a survey of EBMOs and trade unions conducted in 2021 (see Appendix III and ILO 2021d), on available data on the density of employers' organizations and trade unions, and on a review of the secondary literature.



► First Green Climate Fund Forum Meeting for Tonga's private sector.

© Tonga Chamber of Commerce and Industry (TCCI)



► Union representatives from Guinea attending an ILO workshop on communications in Lomé, Togo.

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# 4.1

## Developments relating to employer and business membership organizations

### 4.1.1 EBMOs at a glance: Whom do they represent?

EBMOs are collective interest associations, with voluntary membership, which represent the interests of business in relation to the State, trade unions and society at large. Organizations that deal exclusively with product market issues (such as trade policy, business regulations and infrastructure) are often referred to as “trade associations”, while those focusing on labour market and employment relations are known as “employers’ associations”. However, many EBMOs nowadays are mixed organizations with a broad mandate covering both product and labour market issues. They seek to create the conditions for business success by influencing the policy and regulatory environment through advocacy and social dialogue. Many EBMOs also provide services aimed at improving companies’ performance. These services may include the provision of information on legislation, advice on compliance and human resources management, training, representation in courts or tribunals, and networking opportunities. The literature suggests that EBMOs can help to improve the economic outcomes of affiliated firms. For example, a study focusing on

Portugal finds that affiliated firms exhibit better outcomes than non-affiliated ones in terms of sales, employment and wages (Martins 2020).

EBMOs can operate at various geographical levels: local, regional/provincial, national or international. They may focus on a specific sector or strive to represent businesses across different industries. A few EBMOs are structured as associations whose members are enterprises only. Other EBMOs are federations or confederations – their direct members are provincial or sectoral business associations or a mixture of both business associations and enterprises.

Peak, national-level EBMOs are usually encompassing organizations that represent the interests of businesses of all sizes, across different sectors and regions/provinces, and with various levels of productivity and exposure to international competition. This diversity of membership may pose challenges for the representation of collective interests. In addition, the socio-economic environments in which EBMOs operate differ across countries and over time, which means that services and incentives have to be regularly reviewed in order to retain affiliates and attract new members. Despite these challenges, there is evidence that EBMOs are able to adapt and adjust their activities in line with the changing needs of business (Brandl and Lehr 2019). EBMOs are continuously evolving within their three major roles: as industrial relations actors, as policy influencers and as service providers (Demougin et al. 2019). While data are scarce, the available figures for membership density of employers’ organizations in the Member countries of the Organisation for Economic Co-operation and Development (OECD), especially in Western Europe (see table 4.1), point to relative stability in recent years (OECD 2018; Brandl and Lehr 2019). In Asia, EBMO membership has even grown to some extent (Benson, Zhu and Gospel 2017).

The literature also highlights the challenges that some EBMOs have faced with regard to membership, either in terms of falling affiliation rates or in terms of dissimilarity between the membership structure of the EBMOs and the structure of all businesses in the economy.<sup>1</sup> This points to the need for EBMOs to adopt a professional approach to membership development, which should involve seeking to affiliate the full spectrum of businesses, including traditionally under-represented categories, such as micro and small enterprises (see box 4.1).

<sup>1</sup> See, for example, the concept of “dissimilarity index” presented in Martínez Matute and Martins (2020); and Martins (2020) for EBMO affiliation numbers in Portugal.

► **Table 4.1 Employers' organization density in selected countries (percentage)**

Country	2000 or closest year	Latest year
Austria	100.0	100.0
Sweden	83.0	88.0
Netherlands	85.0	85.0
Belgium	82.0	82.0
Luxembourg	80.0	80.0
France	74.0	75.0
Spain	72.0	75.0
Norway	58.0	73.4
Finland	66.0	69.8
Czechia	35.0	65.1
Portugal	58.0	65.0
Italy	69.6	64.8
Denmark	60.0	62.0
Ireland	n/a	60.0
Germany	68.8	60.0
Greece	n/a	58.4
Slovenia	100.0	56.0
Slovakia	n/a	37.5
United Kingdom	n/a	33.0
Estonia	35.0	25.0
Poland	n/a	20.0
Republic of Korea	n/a	15.1
Latvia	30.0	n/a
Israel	45.0	n/a
Hungary	60.0	n/a

n/a = data not available.

**Note:** Employers' organization density is measured as the number of employees in private sector firms who are members of an employers' organization as a proportion of all wage and salary earners in the private sector.

**Source:** OECD (2019b).

► **Box 4.1 EBMOs and micro, small and medium-sized enterprises**

Micro, small and medium-sized enterprises (MSMEs) account for 90 per cent of businesses and more than half of employment worldwide. The MSME membership base is thus an important component of EBMO representativeness. At the same time, it is often difficult for peak-level, cross-sectoral EBMOs to develop a value proposition for MSMEs and, in particular, for microenterprises.

In some countries, there are specialized EBMOs representing MSMEs only, in some cases including the self-employed. Examples are the Italian Confederation of Craft Trades and Small- and Medium-Sized Enterprises and the Spanish Confederation of Small and Medium-Sized Enterprises. These are mostly service-oriented organizations with a high number of local offices, as proximity tends to be valued highly by MSMEs. They offer consultancy, information and networking opportunities.

National cross-sectoral EBMOs can strengthen their membership base by persuading such business associations to join. Providing MSMEs with a platform to voice their concerns within the national EBMOs through representatives on the board or relevant committees is an example of a recruitment tool.

**Source:** ITC (2021).

## 4.1.2 EBMO responses to socio-economic trends and long-term challenges

A recent joint report by the ILO and the International Organisation of Employers (IOE) identified five global trends that are significantly changing business models: technological innovation; global economic integration; demographic shifts; climate change and sustainability; and shortages of skilled labour (ILO and IOE 2019). These trends create both opportunities and challenges for the EBMOs and highlight the need for continuous adjustments in their activities, services and membership strategies. They are also affecting the policy agendas of EBMOs.

Some of these trends, especially automation and digitalization, have accelerated during the COVID-19 pandemic (ILO 2021e); the most visible impact, as far as EBMOs are concerned, has been on their communication with members and on their information channels. Digitalization can facilitate internal procedures and processes within EBMOs, such as membership recruitment and engagement, project management and internal communication. Many EBMOs have invested in digital tools, such as customer relations management or membership management systems. Digitalization can support certain strategic priorities of EBMOs, including the improvement and scaling up of services and the achievement of greater advocacy impact. Digitalization is also a key policy issue on which EBMOs are increasingly engaged in representing the interests of their members. For example, the Spanish Confederation of Business Organizations covers a wide range of digital technology industries, among others, and is actively engaged in representing its members in policy debates on digital transformation, not least within the framework of social dialogue (see box 4.2). At the international level, the World Employment Confederation, which represents private employment services, has developed a set of policy recommendations for the sustainable growth of platform work and the provision of quality online talent platform services to support the development of diverse forms of work (WEC 2020).

To respond to shortages of skilled labour, EBMOs are increasingly engaging in activities related to education and skills development. A report by international employers' organizations emphasizes that education and skills development are key to employability and a high priority for the private sector (IOE and WEC 2021b). It recommends that policymakers and the social partners align educational curricula with labour market needs and incentivize businesses and workers to address skill gaps and promote lifelong learning. An ILO study on the nature and extent of EBMOs' involvement in vocational training and skills systems confirmed the willingness of such organizations to participate in skills development (ILO 2020b). Nevertheless, not all EBMOs are able to engage fully in this process. It is, above all, those with well-developed roles in skills governance that can support the creation and advancement of quality assurance systems and national qualifications frameworks, co-create national skills strategies, contribute to labour market information systems and advise on the allocation of training funds. The scope of EBMOs' influence tends to depend on whether they perceive themselves to be treated seriously as partners in policy formulation and implementation.

#### ► **Box 4.2 The Spanish Confederation of Business Organizations: Expanding membership in digital technology industries**

Founded in 1977, the Spanish Confederation of Business Organizations (Confederación Española de Organizaciones Empresariales; CEOE) brings together, on a voluntary basis, around 2 million companies and freelancers from all sectors of activity, which are linked to the CEOE through more than 4,500 associations.

Issues related to digitalization are a priority for the CEOE. Its membership encompasses major business associations working in the field of digital technologies, notably the Spanish Association of Blockchain Companies, the Association of e-Learning Providers, the Spanish Association for Digitalization and the Spanish Association of the Digital Economy. In addition, corporate members of the CEOE include a number of platform companies, as well as the main technological companies.

The CEOE works together with its members to foster the digital transformation of the economy and society, promote digital skills and shape an enabling business environment. In September 2018, the Confederation published "Digital Plan 2025", a comprehensive strategy for digitalization in Spain based on three pillars: innovation, entrepreneurship and education. The CEOE also actively participated, as a member of BusinessEurope, in the negotiation of the Framework Agreement on Digitalisation signed by the European social partners in June 2020.

**Source:** CEOE website, <https://www.ceoe.es/en>.

The study also found that all the EBMOs surveyed were of the view, to a greater or lesser degree, that there was a mismatch between labour market needs and the skills currently available.

Another key trend affecting businesses and labour markets has to do with environmental sustainability. Since their membership covers a wide range of businesses, peak EBMOs have a key role to play in raising awareness among the business community about the importance and practical implications of a transition towards greater environmental sustainability. EBMOs may advocate for the development of coherent policy frameworks and incentives to encourage enterprises to use renewable energies and adopt low-carbon production processes and clean technologies. In particular, micro, small and medium-sized

enterprises need assistance to enable them to achieve productivity growth, adjust their production processes and enhance management practices (ILO 2021e). A report by the IOE (2020) provides examples of a wide range of initiatives undertaken by EBMOs in the field of sustainability. For example, the United States Council for International Business has set up a learning platform for sharing good practices and information on companies' efforts in that area, while the Movement of the Enterprises of France has announced a pact for investments in sustainability. The National Business Association of Colombia has established a dedicated department to deal with sustainability and is engaged in several partnerships and projects on the circular economy and sustainable development. The Japan Business Federation (Keidanren) has launched the Challenge Zero project, which encourages member companies to make commitments on decarbonization.

A long-standing challenge for economic and social development is the extent of informality in labour markets in some parts of the world. More than 60 per cent of workers globally still operate

in the informal economy. Informal employment represents 90 per cent of total employment in low-income countries and 67 per cent in middle-income countries (ILO 2020c). Widespread informality is also a challenge for the representativeness of EBMOs, since most informal economic units are not members of such organizations. The case for organizing informal enterprises by EBMOs is often not straightforward (ILO 2020d), since they tend to be perceived as unfair competitors of formal enterprises. Nevertheless, some EBMOs have worked together with informal enterprises and governments on ways of helping informal economic units to achieve the transition to formality (see box 4.3). Promoting transitions from informality to formality is high on the policy agenda of international employers' organizations, all the more so during the recovery from the COVID-19 crisis. In a recent statement, the IOE and the World Employment Confederation noted that the pandemic had highlighted the vulnerability of employers and workers in the informal sector, reaffirming the urgent need to create a conducive business environment for companies to be set up, hire workers and grow in the formal economy (IOE-WEC 2021).

► **Box 4.3 The Ghana Employers' Association and the ILO: Working together to foster the transition to formality**

The Ghana Employers' Association (GEA) plays a leading role in organizing informal enterprises through one of its affiliates, the Council of Indigenous Businesses Associations (CIBA). The CIBA brings together 15 business associations of informal entrepreneurs, including hairdressers and beauticians, barbers, tailors and dressmakers, electronics servicing technicians, garage operators, caterers, air conditioning and refrigeration technicians, and jewellers.

At the outset of the COVID-19 pandemic, the GEA realized that informal businesses, despite being the most vulnerable, were not receiving adequate attention and support. Assistance for informal operators was crucial if the country was to be able to control the spread of the pandemic and mitigate its economic and social impact. At the same time, the GEA saw the crisis as an opportunity to work further with the leaders of the CIBA and policymakers on facilitating the transition of informal operators to formality. As a GEA representative explained:

Generally, informality is characterized by low productivity and revenue. Employers and businesses operating in the informal economy are also exposed to serious challenges such as limited access to finance, credit, technology and government policies. Collaborating with the informal economy operators affords GEA the opportunity to identify their needs, advocate on their behalf and support them to transition to formality for productivity growth and decent job creation.

With the ILO's support, the GEA conducted a needs assessment survey of CIBA members to identify the main areas in which support was required to cushion the impact of the pandemic. Recommendations were also developed on the transition to formality, covering such aspects as how to tackle the multiplicity of fees and levies, the streamlining of procedures for obtaining business permits, and capacity-building in the area of legal requirements. With regard to the last-named aspect, the GEA representative pointed out:

Owing to their long stay in the informal economy, most of the operators are totally unaware of the existing laws, regulations and policies that must guide the conduct of their business and employment relations engagements. A major challenge, therefore, is the need to sensitize them on a variety of legal and policy issues.

**Sources:** ILO (2020e); email exchange with the GEA.

## The impact of the COVID-19 crisis on EBMOs

A joint ILO–IOE survey carried out in May–June 2020 indicated that many peak EBMOs were being affected by the COVID-19 crisis in terms of service delivery, membership and income (ILO and IOE 2020). One third of the EBMOs surveyed had suffered membership losses by June 2020 as a result of the crisis. Organizations in Asia and the Pacific and in the Americas were particularly affected, with around half of them reporting decreases in membership. At the same time, EBMOs adjusted swiftly to crisis conditions by offering incentives aimed at retaining members. These included, in particular, making services free of charge (as was the case in 58 per cent of the EBMOs surveyed) and postponing deadlines for the payment of membership dues (51 per cent). Other incentives used were the introduction of arrangements for payments to be made in instalments, and temporary suspensions or reductions of membership fees.

The economic contraction and decline in enterprise activity during the crisis also had a direct impact on the income streams of EBMOs. More than 80 per cent of the EBMOs surveyed saw their income shrink in March and April 2020. It is unclear whether subscription fees for 2021 were also reduced as businesses continued to struggle with recovery efforts and prioritize essential expenditures.

To respond to these challenges, EBMOs have been overhauling their service delivery, intensifying their advocacy efforts, building new partnerships and strengthening existing ones. Indeed, by June 2020 over 80 per cent of the EBMOs surveyed across the world had adjusted their service delivery. The majority had started to offer virtual advisory, legal and consulting services (83 per cent), while more than half (54 per cent) had succeeded in moving their training services to online platforms (see also box 4.4).

### ► Box 4.4 Digitalization of services: The Employers Confederation of the Philippines launches online learning platform in response to the COVID-19 crisis

In July 2020, the Employers Confederation of the Philippines (ECOP) launched its eCampus learning platform, with support from the ILO Bureau for Employers' Activities and the International Training Centre of the ILO. Via the platform, the ECOP has conducted a variety of remote training sessions on industrial relations, human resources management, occupational safety and health, and entrepreneurship. The launch of the platform has enabled the ECOP to continue to deliver training services effectively during the pandemic, and to scale up and expand its training offer.

Source: ILO (2020f).

EBMOs can make a significant contribution to protecting employers against economic adversity. Companies can benefit from shared information and coordination, especially in times of uncertainty and crisis (Brandl and Lehr 2019). During the COVID-19 crisis, EBMOs have provided practical support for their members, such as information on workplace health and safety and advice on accessing government support measures (ILO 2021e). They have also facilitated mutual assistance among businesses. In addition, the vast majority of EBMOs have leveraged available resources to substantially increase their advocacy efforts and involvement in policy design during the crisis. They have been active in helping to shape immediate policy interventions aimed at ensuring workplace safety and safeguarding business continuity, notably through appropriate support measures. EBMOs have also been involved in the development of longer-term road maps and campaigns for a strong economic recovery (see box 4.5). In a large number of countries, EBMOs have established or joined partnerships – in particular, with workers' organizations. In this way, they have been able to make joint representations to governments and suggest ideas for supporting businesses and workers. Tripartite and bipartite social dialogue has played a considerable role in shaping the crisis response and mitigating the impacts of the pandemic on the economy and labour markets.

► **Box 4.5 “Reboot and Reimagine”:  
Ibec campaign for national recovery and  
a sustainable economy in Ireland**

In May 2020, Ibec, the peak EBMO in Ireland, launched its “Reboot and Reimagine” campaign, which sets out a vision and road map for Ireland’s economic recovery. Key recommendations are grouped around six thematic areas: crisis management; fiscal policy and stimulus measures; getting people back to work; stimulating investment; reimagining a better Ireland; and seizing international opportunities and responding to Brexit. Through this campaign, Ibec is calling on the Government to consult with and engage the social partners in policymaking in a more structured manner and on a broad range of long-term societal issues, such as climate change, social protection models, and housing and other aspects of quality of life. Ibec has emphasized that a well-functioning social dialogue model would help to build confidence and trust in public policy responses.

**Source:** Ibec web page on the “Reboot and Reimagine” campaign, <https://www.ibec.ie/influencing-for-business/ibec-campaigns/reboot-and-reimagine>.

### 4.1.3 EBMOs as actors in collective bargaining

As noted in Chapter 2 (Figure 2.8), outside a number of European countries, and other countries such as Argentina, Brazil, Senegal, South Africa, Tunisia and Uruguay – single-employer bargaining at the enterprise level plays a predominant role in shaping working conditions and relations between employers and workers, at least in the private sector. In other countries, enterprise-level bargaining takes place in the context of multi-employer bargaining at the sectoral and/or interprofessional level. The literature indicates that the advantages of multi-employer bargaining for companies include savings in transaction costs, the creation of a level playing field for wages and working conditions, the establishment of industry-wide occupational training schemes, effective conflict resolution mechanisms and greater scope for cooperative strategies at the enterprise level. On the other hand, single-employer bargaining can benefit companies through, inter alia, shorter lines of communication, speedier resolution of issues, and greater autonomy to adapt working conditions to local productivity levels and changing environments (Zagelmeyer 2005).

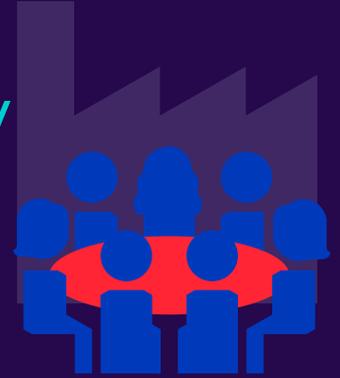


► 42nd Annual General Meeting of the Federation of Uganda Employers (FUE).

# EBMOs are central to sound industrial relations and well-coordinated collective bargaining

## EBMOs are evolving in their respective roles as industrial relations actors, as policy influencers and as service providers

The ILO conducted a survey during April and May 2021 among peak EBMOs to examine how their role is evolving in respect of collective bargaining\*



### ► Involvement of EBMOs or affiliated associations in collective bargaining



of respondents are directly involved in collective bargaining at the **interprofessional level**



of respondents indicated that their affiliates had been directly involved in negotiations at the **sectoral level**

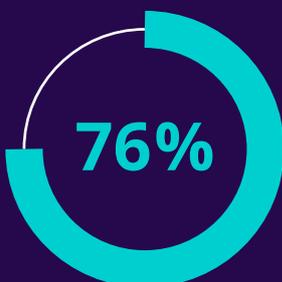


of respondents indicated that their experts had supported collective bargaining at the **sectoral level**



of respondents reported that their experts had supported collective bargaining at the **enterprise level**

### ► Bargaining coordination by EBMOs



of respondents reported that they are involved in the **provision of relevant information**, for example, on wage developments and productivity to members engaged in collective bargaining



of respondents are involved in the coordination of collective bargaining conducted by **sectoral or regional employers' associations**



of respondents are involved in the coordination of collective bargaining conducted by **companies**

\* n = 70.

The ILO conducted a survey during April and May 2021 among peak interprofessional EBMOs<sup>2</sup> on the roles played by them and their affiliated member associations (such as sectoral organizations and subnational territorial organizations) in collective bargaining, and on their perceptions regarding collective bargaining issues. Responses were received from 70 EBMOs in 70 countries across five regions: Africa (18.6 per cent), the Americas (20.0 per cent), Arab States (1.4 per cent), Asia and the Pacific (31.4 per cent), and Europe (28.6 per cent).

**Just under half (46 per cent) of the EBMOs surveyed indicated that they had been directly involved in collective bargaining at the inter-professional (cross-sectoral) level in the previous five years.**<sup>3</sup> These included organizations from all regions apart from the Arab States. Experts from peak EBMOs had also been involved in collective bargaining negotiations at the sectoral level (21 per cent of respondents) or the enterprise level (also 21 per cent). The negotiations dealt with issues pertaining to wages (in particular, the adjustment of wages during COVID-19-related lockdowns), working conditions, labour relations, labour law reforms, occupational safety and health, telework and social security. Among the EBMOs involved in collective bargaining, 17 per cent responded that the negotiations had not resulted in the signing of a collective agreement; 37 per cent indicated that collective agreements

had been signed in some cases; and 39 per cent stated that agreements had been concluded in all cases.

**Over half (54 per cent) of the EBMOs surveyed indicated that their affiliated or member associations had been directly involved in collective bargaining at the sectoral level in the previous five years.** In some cases, this concerned only specific sectors (for example, construction, transport, mining, tourism, banking and finance), while in others the negotiations covered most of the economy.

In addition to their involvement in multi-employer bargaining, EBMOs also play a variety of service and assistance roles related to collective bargaining processes. Depending on the national industrial relations context, these may include the provision of relevant information (such as salary surveys), participation in policy and regulatory debates on collective bargaining, the provision of legal advice or the organization of relevant training (for example, on negotiations skills). Relatively less frequently, survey respondents mentioned functions such as assistance with the settlement of collective disputes, representation before labour administration officials or industrial courts, the promotion of social dialogue at all levels and the coordination of bargaining conducted by sectoral or regional associations (see figure 4.1 and boxes 4.6 and 4.7).

► **Box 4.6 Employers' and workers' organizations in Cameroon agree to promote bipartite social dialogue**



► Signing of the Charter constituting the Permanent Framework for Bipartite Social Dialogue in Cameroon.

<sup>2</sup> The survey reached the most representative EBMOs in a given country. The sample included the ILO's employer constituents. Business associations representing specific groups, such as sectoral associations, regional or provincial associations, were not directly targeted by the survey.

<sup>3</sup> Survey respondents were provided with the definition of collective bargaining contained in Convention No. 154. However, it is possible that the term was understood differently by some respondents.

**Box 4.6 (cont'd)**

In July 2021, two employers' organizations in Cameroon – the Inter-Patronal Grouping of Cameroon (GICAM) and Entreprises du Cameroun – signed a charter with the most representative trade union confederations<sup>1</sup> to create a framework for bipartite social dialogue at various levels. One of the employers' organizations, the GICAM, emphasized in that connection:

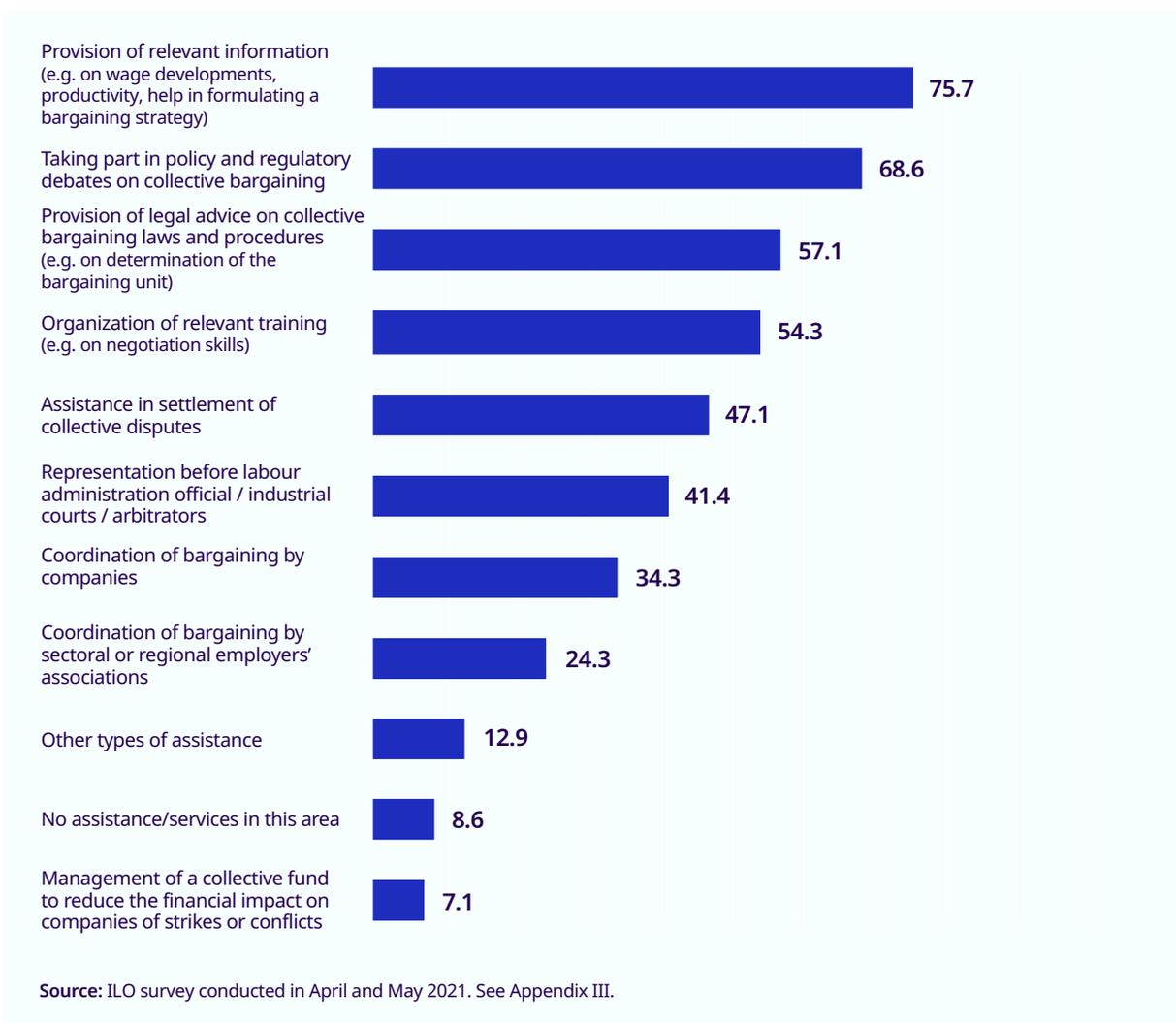
“Social dialogue is an imperative for democracy and good governance and contributes to the promotion of economic and social rights and the participation of economic actors in the management of development processes.”

At the national level, the charter establishes a national committee made up of ten employers' representatives and ten trade union representatives with a three-year mandate in each case. The charter also provides for the establishment of sectoral committees for specific branches of the economy, and of workplace committees at the enterprise level. It is hoped that the agreement will help to strengthen social dialogue at all levels of the economy with a view to promoting sustainable economic development and decent work. Occupational safety and health, measures to support employment creation, tackling harassment in workplaces and anti-discrimination actions are among the topics to be discussed by the social partners.

<sup>1</sup> Union générale des Travailleurs du Cameroun, Confédération Syndicale des Travailleurs du Cameroun, Confédération des Syndicats Autonomes du Cameroun, Union des Syndicats Libres du Cameroun and l'Entente Nationale des travailleurs du Cameroun.

**Sources:** GICAM web page on the signing of the charter, <https://www.legicam.cm/index.php/p/une-charte-nationale-de-dialogue-lie-desormais-patrons-et-travailleurs> (in French only); email exchange with the GICAM.

► **Figure 4.1 Services provided by EBMOs in relation to collective bargaining (percentage of respondents)**



► **Box 4.7 Confederation of Norwegian Enterprise: Management of a conflict fund**

In Norway, wages and other working conditions are negotiated by the parties concerned. In the private sector, wages may be negotiated at the central, sectoral or company level. If negotiations fail, the parties are entitled to take industrial action (strike or lockout), observing the relevant provisions of the law. Although Norway enjoys peaceful labour market relations in general and most negotiations are settled by agreement, strikes do occur.

The Confederation of Norwegian Enterprise (NHO), Norway's largest organization for employers, has since 1913 had its own conflict fund to reduce the financial impact of strikes or industrial disputes on companies. The strategic rationale for the fund is to strengthen member companies' ability and willingness to show resistance during collective bargaining negotiations and to support the achievement of employers' goals when developing collective agreements.

Member companies directly affected by legal industrial action are entitled to a standardized compensation based on their salary costs. In the event of an illegal strike, the company receives full compensation for loss of profits.

The fund is financed through contributions from member companies registered as bound by collective agreements (0.045 per cent of salaries paid in the previous year) and dividends on the fund's capital.

**Source:** <https://www.nho.no/en/>; email exchange with the NHO.

Looking ahead, over half of the peak EBMOs surveyed expect that issues related to collective bargaining will become more important for them in the years to come. Around 41 per cent responded that such issues would remain at the same level of importance, while 7 per cent believed that their importance would decline. There are some regional differences. For example, 60 per cent of respondents from Europe expect the importance of collective bargaining issues to remain stable, while 14 per cent of those from the Americas anticipate a decline in importance. A significant proportion of respondents from Asia (64 per cent) and Africa (77 per cent) report that collective bargaining will become an increasingly important issue for EBMOs (figure 4.2).

The survey also asked about the barriers and difficulties faced by employers' organizations when engaging in collective bargaining. Legal, institutional and economic contexts differ markedly across countries, and this was reflected in the responses. Nevertheless, three common challenges were highlighted: (a) uncertainty in the economic situation making it difficult to conclude long-term agreements; (b) the great diversity in the economic situations and needs of member companies; and (c) the reluctance of companies to be subject to many layers of collective bargaining (for example, the sectoral, regional and company levels). Other frequently mentioned

difficulties were trade unions demanding negotiations on issues that went beyond the scope of collective bargaining; lack of trust among the social partners; the multiplicity of trade unions; and companies failing to see the benefits of collective bargaining. A smaller share of respondents pointed to barriers related to labour laws (such as labour laws being too extensive or detailed; and no or limited possibility of derogating from labour law through a collective agreement).

EBMOs have been involved in a variety of initiatives to tackle the difficulties relevant to their national contexts. In several European countries with multi-employer bargaining, EBMOs have advocated adjustments in industrial relations frameworks to support wage growth in line with productivity, often involving the strengthening of enterprise-level negotiations. They have also encouraged debates on how collective bargaining can promote productivity improvements and competitiveness,<sup>4</sup> a key topic that will be a focus of the next *Social Dialogue Report*.

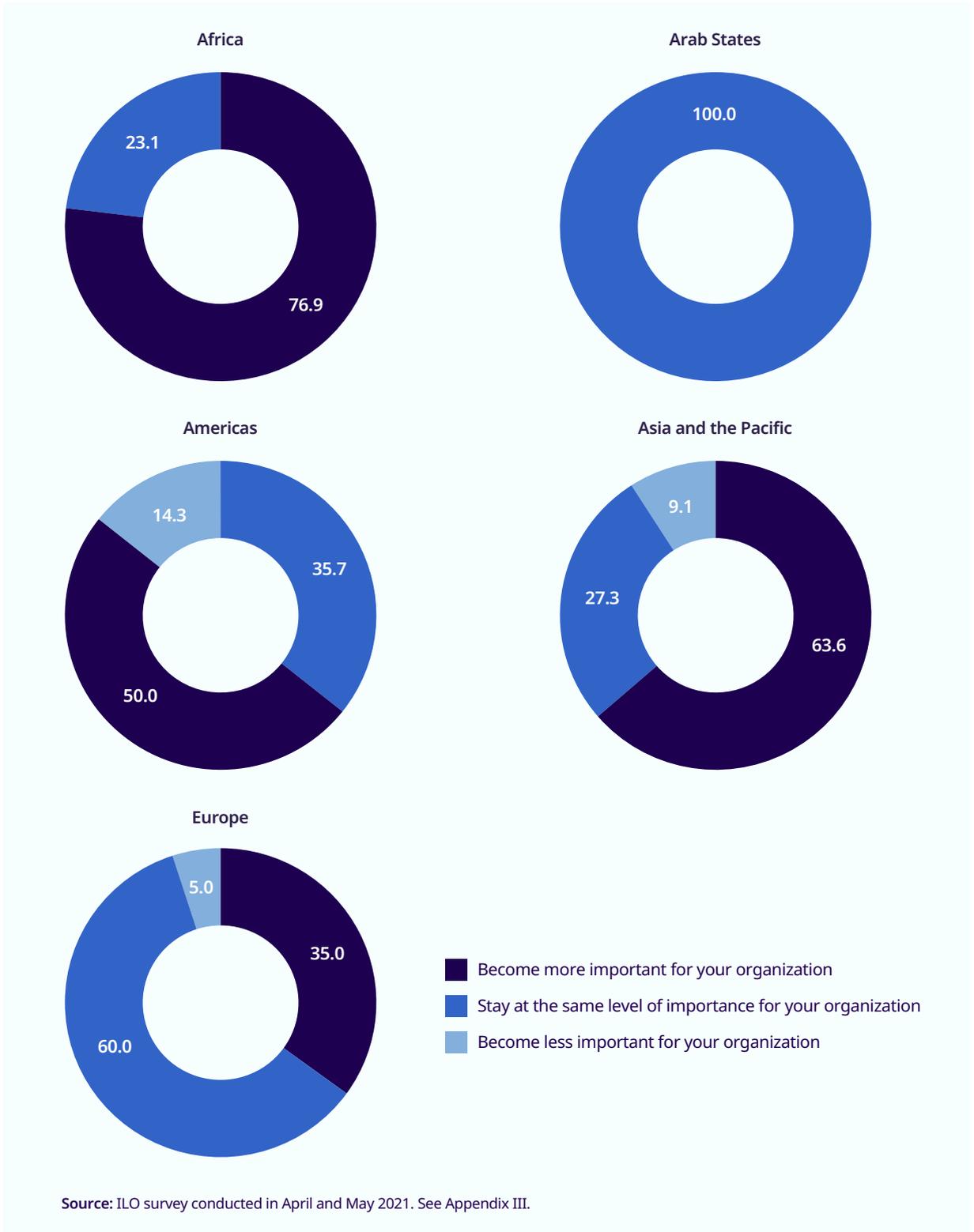
Some EBMOs have sought to promote collective bargaining by calling for labour law to become more responsive (see box 4.8). As pointed out in Chapter 2, a number of countries provide for the social partners to be able to derogate, through collective agreements, from statutory provisions, in line with the principles enshrined

4 See, for example, the presentations given at an ad hoc employers' seminar on collective bargaining and competitiveness organized by employers' organizations in the EU and held in Rome on 17 and 18 September 2018, available from the Employers' Resource Center website, <http://erc-online.eu/previous-projects-date/projects-on-the-social-dialogue-projects-2016-2018/>.

in international labour standards (see boxes 2.1 and 2.8 in that chapter). The idea is to devolve a certain degree of standard-setting, for example on working time, to the social partners, allowing them to use the regulatory techniques afforded by collective bargaining to devise rules and

protections that are better suited to their particular needs. However, such derogations should be targeted (that is, cover specific aspects of conditions of work) and be applied only in a circumscribed and reasoned manner (see box 2.1).

► **Figure 4.2** Looking ahead, how important will collective bargaining be for EBMOs (percentage of respondents)?



► **Box 4.8 Social partners in Latvia promote collective bargaining through responsive regulation**

LDDK, a peak employers' organization in Latvia, undertakes bipartite dialogue with trade unions and tripartite dialogue with the Government. Its priorities in the area of social dialogue include the strengthening of cooperation between workers and management at the company level, the development of social dialogue at the municipality level, and the strengthening of autonomous bipartite sectoral social dialogue.

In Latvia, employers' organizations consider labour law to be overly detailed, reducing the space for social dialogue (Ghellab and Vaughan-Whitehead 2020). To promote collective bargaining, the social partners advocated the introduction of the possibility for social partners to derogate from certain norms established by labour law. In particular, the social partners agreed that, by means of a universally binding sectoral collective agreement, it would be possible to reduce the statutory supplementary overtime payment rate of 100 per cent, if all of the following conditions were met:

- the agreement has *erga omnes* application;
- the agreement is signed by a trade union affiliated to the largest trade union confederation;
- the agreement provides for a higher minimum wage for the sector than the statutory minimum wage; and
- the supplementary payment for overtime is not lower than 50 per cent.

This amendment was made to the Labour Act in 2019, and it encouraged the signing of the first industry collective bargaining agreement in the construction sector in Latvia. According to the Partnership of Latvian Constructors, the agreement will help to promote fair competition, support the retention of qualified staff and increase competitiveness (through reduced overtime payments and longer reference periods for the calculation of working time).

Sources: ETUC (2019); Partnership of Latvian Constructors website, <https://www.latvijasbuvnieki.lv/>.

In Germany, taking into account the diversity of members' needs in the context of multi-employer bargaining, EBMOs over the past decades have introduced a special category of membership for companies, namely membership without being bound by collective agreements signed by the EBMO that it has joined. This type of membership allows companies to benefit from services offered by an EBMO (such as networking opportunities and legal assistance) and take part in the development of its advocacy activities, without having to apply collective agreements negotiated by the EBMO. Firms with such a membership status usually pay reduced membership fees (Jirjahn 2021).

In South Africa, unions and employers' organizations in sectoral bargaining councils negotiate agreements which can be extended by the Minister of Employment and Labour to non-parties – that is, all enterprises in the industry and region that fall within the designated scope of the bargaining council. Small business representatives

have called for blanket exemptions for small companies (Magruder 2012). To ensure that the interests of small businesses are represented at the bargaining table, the Labour Relations Act requires the constitution of every bargaining council to provide for “the representation of small and medium enterprises” (section 30(1)(b); see also Godfrey 2018).<sup>5</sup> A study of nine bargaining councils conducted in 2006 found that employers' representatives at six of them had nominated one or two of their number specifically to represent the interests of small businesses (Godfrey, Theron and Visser 2007).<sup>6</sup> In 2014, an amendment was introduced to the Labour Relations Act, requiring that (a) the Minister must be satisfied that the council has an effective procedure to deal with exemption applications by non-parties before a bargaining council agreement can be extended; and (b) an independent body is able to decide appeals brought by non-parties within 30 days. Research indicates that the exemption system operates

5 Amendments to the Labour Relations Act in 2002 introduced a greater focus on the representation of small firms. Section 54(2)(f) requires bargaining councils to submit data to the registrar concerning the small enterprises that fall within the scope of the council. The information should include the number of people employed by small firms, indicate how many are trade union members and how many small firms are members of the employers' organizations that are parties to the council, and include data on the number of applications for exemption made by small firms.

6 Only one bargaining council had an employers' organization that represented small businesses.

effectively, and that the proportion of small businesses granted an exemption is higher than the corresponding share for all businesses (Godfrey, Maree and Theron 2006; Godfrey 2018).

At the international level, employers' organizations recognize the diversity of industrial relations models across countries and emphasize that different models can deliver favourable labour market outcomes. For example, Business at OECD recently recommended that policymakers should "assess industrial relations on their ability to deliver value added to businesses and employees", "refrain from promoting one specific industrial relations model", and "recognize and integrate the national institutional, social, and cultural traditions in policy recommendations on workplace relations" (Business at OECD 2021).

# 4.2

## Developments relating to trade unions and workers' organizations

### 4.2.1 Trade unions at a glance: Whom do they represent?

**Trade unions are among the world's largest voluntary membership organizations.<sup>7</sup> In 2019, the year before the outbreak of the COVID-19 pandemic, trade unions represented more than 251 million workers in both the public and the private sectors.<sup>8</sup> This grand total includes a**

small but rising number of own-account workers and professionals, and about 40 million members who have retired and withdrawn from the labour market. Table 4.2 compares global union membership with the available data on employment.

**Since 2009, global trade union membership has increased by 3.6 per cent, or 4.3 per cent if only employed members are counted. This growth is entirely due to the increase in union membership among own-account workers,** that is, workers who work on their own account, hold positions defined as "self-employed" and do not engage others to work for them – for example, waste pickers, translators, journalists, actors, musicians, interpreters and some other professions (such as social care workers in some countries). Union membership of wage and salary earners, the traditional target group of trade unions, has stagnated and not kept up with the rise in employment. Consequently, pre-pandemic density levels are lower than ten years ago. Calculated over the employed working population, one in nine workers joins a union (11 per cent), while among employees it is one in six (16.5 per cent). The unionization of own-account workers has only just begun and the density rate for that group is still very low (2.2 per cent).

#### Regional differences

Figure 4.3 shows the global distribution of union members. Whereas Europe and Central Asia accounted for 44.2 per cent of global trade union membership in 2008, its share had declined to 35.5 per cent by 2019. In contrast, the share of membership increased both in Asia and the Pacific and in Africa. As things stand today, 36.5 per cent of the global union membership is located in Asia, 35.5 per cent in Europe and Central Asia, 17.9 per cent in the Americas, 10 per cent in Africa and 0.2 per cent in the Arab States.

There is significant variation in union density across the world (see figure 4.4). If calculated over the entire employed labour force (that is, including own-account workers), union density rates range from 3.9 per cent in Central Africa to 31.4 per cent in Northern Europe, or from less than 1 per cent in Burundi to 79 per cent in Iceland. If only employees are counted, union density rates range from 6.7 per cent in the Arab States to 33.1 per cent in Northern Europe, or from less than 1 per cent in Oman to 91 per cent in Iceland. In many parts of the world, especially in sub-Saharan Africa and South Asia, the "standard"

<sup>7</sup> This section draws on a forthcoming working paper prepared for the ILO Bureau for Workers' Activities (Visser, forthcoming).

<sup>8</sup> This does not include trade union membership in countries for which data are not reliable.

union density rate calculated over wage and salary earners in employment is artificially high given the size of the informal economy in those

countries. For this reason, figure 4.4 presents both density rates for regional comparison.

► **Table 4.2 Global union membership, employment and union density rates, in 2008 and 2019**

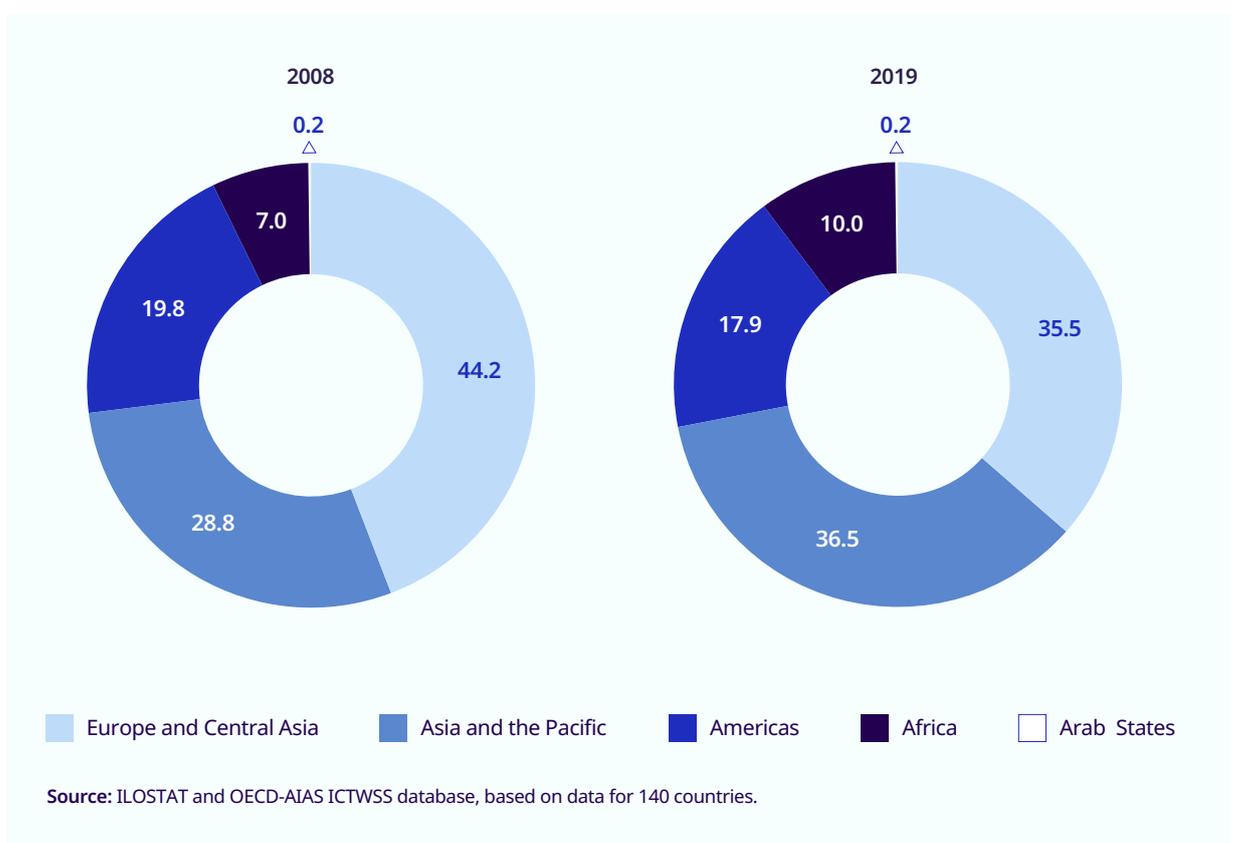
	Union membership ('000s)			Employment ('000s)			Union density (%)	
	2008	2019	Change (%)	2008	2019	Change (%)	2008	2019
<b>Total reported</b>	242 771	251 452	+3.6	-	-	-	-	-
<b>Non-active</b>	40 241	39 907	-0.8	-	-	-	-	-
<b>Unemployed</b>	711	720	+1.3	-	-	-	-	-
<b>Employed</b>	202 189	210 825	+4.3	1 639 763	1 887 837	+15.1	12.3	11.2
Own-account	5 790	16 033	+176.9	659 445	726 089	+10.1	0.9	2.2
Wage and salary earners	196 399	194 792	-0.8	980 318	1 161 747	+18.5	20.0	16.8

- = not part of the analysis.

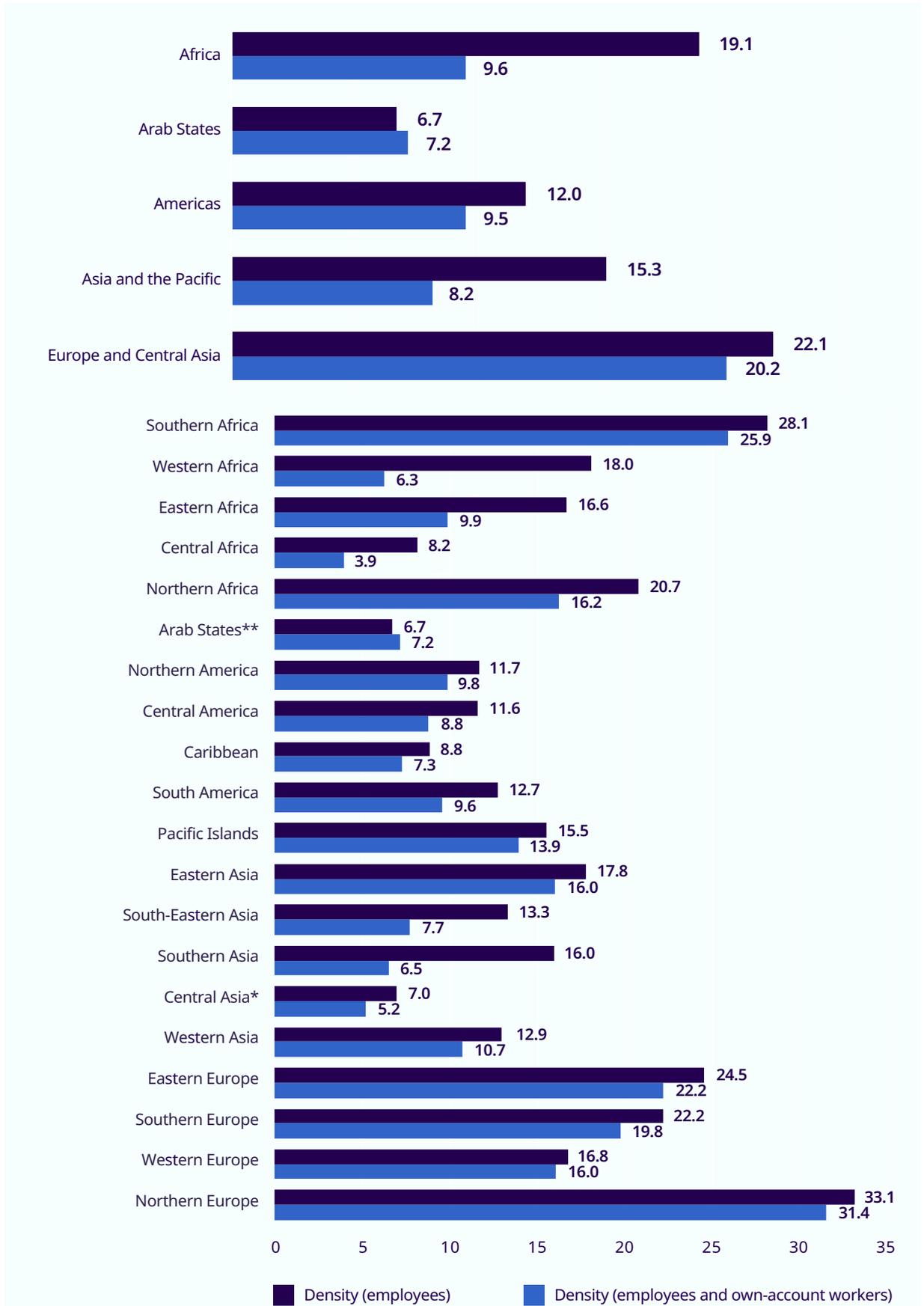
**Note:** Included in these figures are union membership and employment data from 142 of the 187 ILO Member States: 40 in Africa, 29 in the Americas, 34 in Asia and the Pacific, and 39 in Europe. Not included are States involved in civil war and those for which no reliable data can be obtained. The employment data are from ILOSTAT and are based on household surveys and projections for the nearest possible year, and on an estimated share of own-account workers.

**Source:** ILOSTAT; OECD–Amsterdam Institute for Advanced Labour Studies (AIAS) database on Institutional Characteristics of Trade Unions, Wage Setting, State Intervention and Social Pacts (OECD–AIAS ICTWSS database); ILO modelled estimates, November 2016.

► **Figure 4.3 Distribution of union members in 2008 and 2019, by region (percentage)**



► Figure 4.4 Union density rates, by region and subregion, 2019 (percentage)



Note: \* Data only available for Kazakhstan. \*\* Based on data for three countries.

Source: ILOSTAT; OECD-AIAS ICTWSS database.

## Sectoral differences

Historically, most union movements have their roots in manufacturing and mining, transport (ports, railways and postal services) and parts of the public sector (education, municipal services and utilities). One of the perennial challenges

faced by trade unions everywhere is to keep up with the evolution of the employment structure – from manual to non-manual work, from industry to services, and, most recently, from analogue to digital services. To a lesser or greater extent, unions have succeeded in this. Today the majority of trade union members are in a non-manual

► Table 4.3 Union density rates, by broad economic sector, selected countries (percentage)

Country	Years		Industry		Private commercial services		Social and community services	
Australia	2000	2016	30.8	14.1	16.9	8.0	34.7	22.2
Austria	2002	2016	40.4	32.2	27.0	19.2	46.0	33.1
Belgium	2002	2016	77.8	63.2	53.2	44.6	49.7	51.8
Canada	2002	2017	31.5	25.7	13.6	12.4	51.3	50.5
Chile	2005	2015	20.2	18.5	n/a	13.3	n/a	11.0
Czechia	2002	2016	26.5	10.8	24.5	8.8	20.2	19.4
Denmark	2000	2016	79.9	75.8	58.1	61.3	83.8	72.2
Finland	2000	2016	78.0	66.0	64.1	54.0	77.1	71.0
France	2003	2013	12.8	8.5	8.6	7.0	12.4	14.0
Germany	2002	2016	31.0	19.0	17.1	10.9	25.6	21.8
Hungary	2001	2015	14.7	7.0	16.9	7.0	31.6	16.0
Ireland	2001	2016	40.6	19.0	25.8	17.0	54.7	35.6
Italy	2000	2014	40.2	43.1	28.2	23.5	31.7	41.5
Netherlands	2000	2016	32.0	22.1	17.1	12.7	32.5	21.7
New Zealand	2001	2014	25.2	14.4	8.3	8.5	45.7	35.7
Norway	2001	2014	52.5	51.0	33.0	34.0	75.0	76.0
Poland	2002	2016	19.8	14.0	10.8	7.0	32.4	21.0
Portugal	2002	2016	16.8	10.1	16.7	7.7	34.6	38.3
Slovenia	2002	2016	52.2	20.2	33.0	13.6	53.0	29.3
Spain	2002	2016	15.1	12.4	13.0	12.1	27.0	20.5
Sweden	2001	2016	75.7	70.6	65.0	61.0	83.0	70.7
Switzerland	2005	2015	32.3	25.3	11.5	14.4	23.7	18.2
United Kingdom	2000	2016	27.8	17.0	17.8	13.2	36.1	40.1
United States	2000	2018	15.5	10.8	7.7	6.0	20.2	18.0
<b>Average</b>			<b>37.0</b>	<b>27.9</b>	<b>25.6</b>	<b>19.9</b>	<b>42.7</b>	<b>35.4</b>
Brazil	n/a	2016	n/a	25.0	n/a	n/a	n/a	n/a
Colombia	n/a	2015	n/a	5.0	n/a	2.0	n/a	12.0
Costa Rica	n/a	2015	n/a	4.0	n/a	4.0	n/a	37.0
Estonia	n/a	2016	n/a	3.9	n/a	2.2	n/a	6.6
Japan	n/a	2014	n/a	24.5	n/a	16.4	n/a	10.6
Mexico	n/a	2015	n/a	13.9	n/a	4.4	n/a	23.0
Republic of Korea	n/a	2013	n/a	12.3	n/a	7.4	n/a	13.4
South Africa	2007	n/a	52.0	n/a	12.0	n/a	58.0	n/a
Turkey	n/a	2015	n/a	11.9	n/a	6.2	n/a	6.0
Uganda	n/a	2016	n/a	6.7	n/a	6.7	n/a	18.8
United Republic of Tanzania	n/a	2016	n/a	6.6	n/a	1.3	n/a	28.6
Zambia	n/a	2016	n/a	16.2	n/a	7.0	n/a	27.0
<b>Average</b>			<b>n/a</b>	<b>11.8</b>	<b>n/a</b>	<b>5.8</b>	<b>n/a</b>	<b>18.3</b>

n/a = data not available.

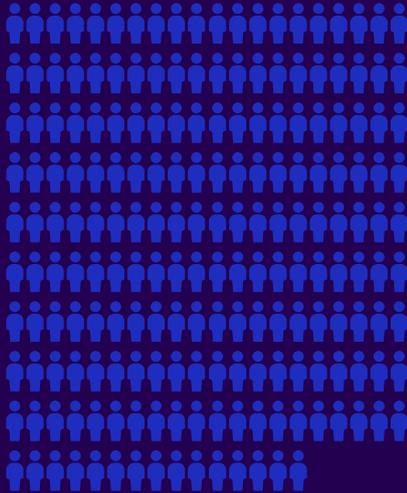
Source: Visser (forthcoming); OECD-AIAS ICTWSS database.

# Trade unions form one of the largest and most representative organizations in the world, based on voluntary membership

2019

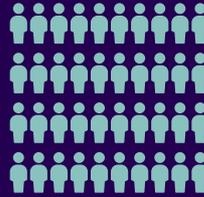
## ▶ Trade unions represent 251 million workers\*

195 million



Employees

40 million

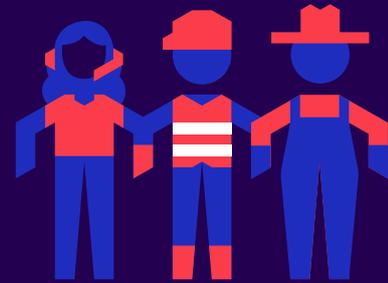


Retired and unemployed workers

16 million



Own-account workers



**+ 8.7 million** workers joined a trade union between 2008 and 2019

## ▶ Trade union density\*

Trade union density is closely related to the collective bargaining coverage rate

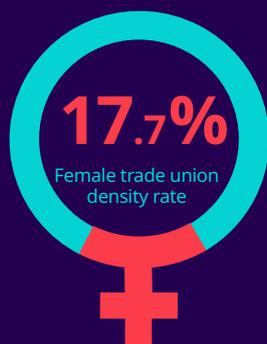
A higher percentage of wage and salary workers (employees) are members of a trade union than own-account workers, but the membership of own-account workers increased by 176.9% between 2008 and 2019.

**16.8%** Employees

**2.2%** Own-account workers

Note: The trade union density rate measures the percentage of workers (employees or own-account workers) that are members of a trade union as a proportion of the total number of workers (employees or own-account workers).

The female unionization rate is now higher than the male unionization rate



\* Based on data for 142 countries.

Source: ILOSTAT and OECD-AIAS ICTWSS database.

occupation and work in services. In all but a few countries – Germany, Japan and the Republic of Korea, and, owing to their large mining sectors, South Africa, Zambia and Zimbabwe – fewer than 30 per cent of union members work in industry.

Density rates in manufacturing have fallen nearly everywhere. Since the early 2000s, among the countries for which there are data for two points in time, the average density rate in manufacturing has decreased from 37 to 28 per cent – a decrease greater than in private commercial services (26 to 20 per cent) or social and community services (43 to 35 per cent). Among the countries for which only recent data are available, density rates are even lower (table 4.3).

### An increasingly diverse membership

The growing diversity of work arrangements (including fixed-term contracts and temporary agency work) and of union membership represents a significant challenge for union organizers. For example, trade unions need to find ways to represent the interests of young workers, in a context in which trade union density is higher among older workers (see figure 4.5).

Trade unions are overwhelmingly organizations of and for wage earners. However, many trade union confederations, especially in Western Europe, also represent retired workers with old age and disability pensions. A small but growing share of members are own-account workers (see figure 4.5). While only one in ten workers in high-income countries is engaged in traditional own-account work in sectors such as construction, road haulage, financial services, tax and business consultancy, information technology, media and the arts, own-account work is the dominant employment status in the informal economies of developing countries. The membership of

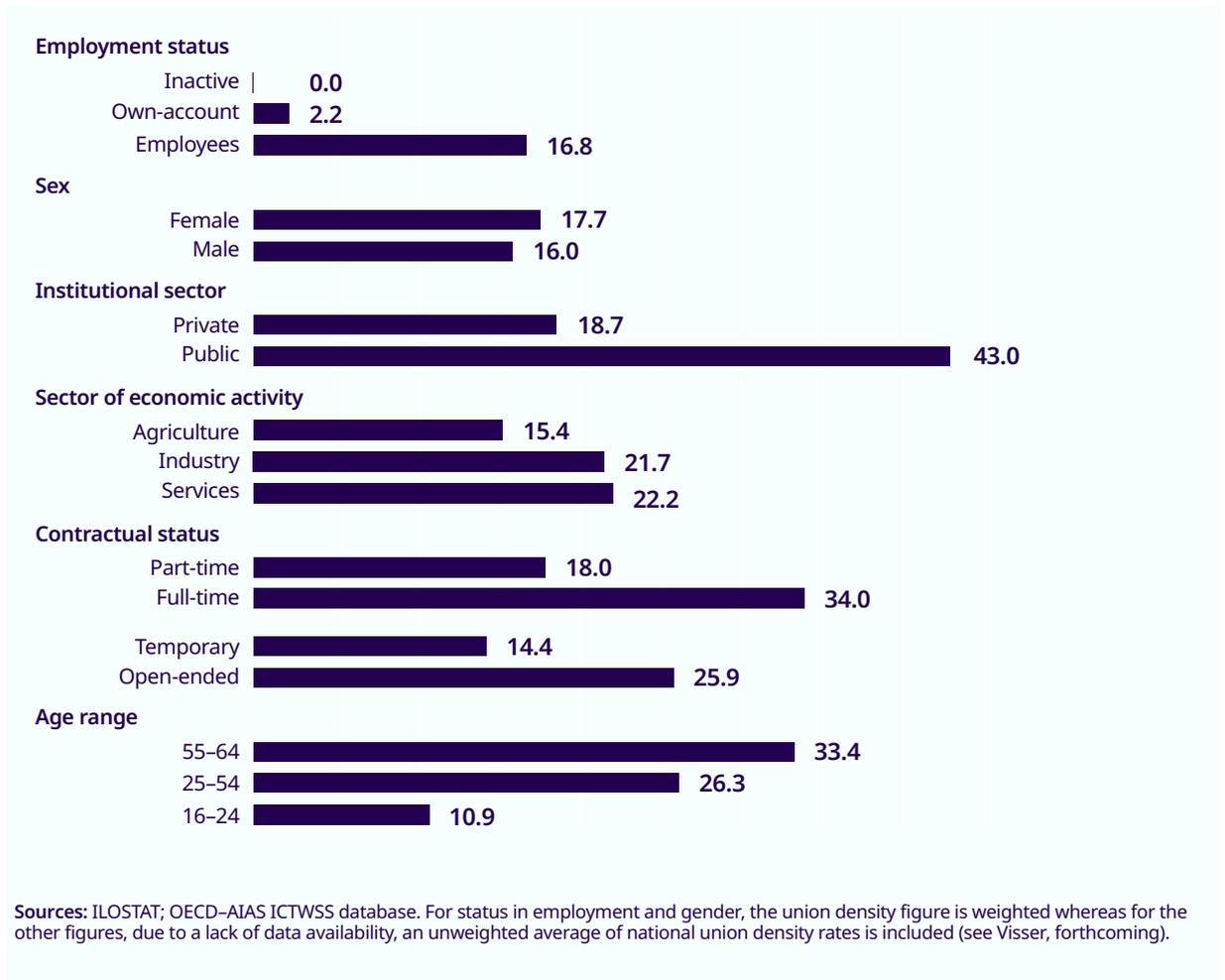
own-account workers in trade unions has almost tripled in a decade (see table 4.2 above). In some countries, unions or union confederations have changed their by-laws to admit own-account workers, often so as to anticipate changes in labour laws which deny such workers and those in the informal economy freedom of association. In other countries, such as Italy, the Netherlands and the United Kingdom, special unions or sections have been established for this purpose.

**The female unionization rate is now higher than the male rate worldwide.** In 40 of the 86 countries for which data are available, the female unionization rate is higher, in 40 countries it is lower than the male rate, and in six countries there is no difference. A few decades ago, women were very much a minority in trade unions, and there were glaring differences between them and their male counterparts in terms of wages, benefits, career prospects, dismissal protection and pension rights. Much has changed with the feminization of a large number of occupations, and most unions have responded by paying considerably greater attention to the demands of women and to work–family issues in general. Despite the greater participation of women in employment, politics, business and unions (including more women occupying positions of leadership in unions), a number of barriers remain to having their interests addressed. In China, India, the Republic of Korea and South Africa, women organizers have set up special women-only networks or unions to challenge traditionally male-dominated union leadership (Agarwala 2014; Broadbent and Ford 2008).

**Unionization density rates are higher in the public sector,** as compared to the private sector, which also accounts for higher female composition in terms of density rates. On average, a full-time worker is almost twice as likely as a part-time worker to join a union. Nevertheless, the



► **Figure 4.5 Union density rates by employment status, sex, institutional sector, contractual status and age, 2015 (percentage)**



increasing unionization of women no doubt also accounts for a significant proportion of the trade union density rates of part-time and temporary workers (see figure 4.5). In high-income countries, an average of 17 per cent of all employees work part time, 70 per cent of them being women (OECD 2017). In these countries, the share of part-time workers in the unions has increased steadily and currently stands at an average of 13 per cent, ranging from 2 per cent in Greece to 33 per cent in the Netherlands.

## 4.2.2 Current challenges facing trade unions: How are they responding?

In high-income countries, most union members are employed under open-ended contracts. The share of those on fixed-term or temporary contracts currently stands at just 11 per cent, but it is growing. The fact that temporary agency work

and fixed term employment have become the reality for many young people is another reason why unions have adjusted their policies (see box 4.9). For example, Japanese unions have changed their attitude towards part-time workers, most of whom are young, female and with limited employment protection. Their recruitment campaign targeting such workers met with only modest success and revealed a number of internal obstacles – a problem that also manifested itself in the Republic of Korea (Durazzi, Fleckenstein and Lee 2018). In both countries, temporary workers' alliances and community-based unions have been established to assist workers, especially women.

An estimated 272 million people in 2019 were international migrants, of whom 169 million were migrant workers, representing an increase of 19 million, or 12.7 per cent, since 2013 (ILO 2021f). This trend has gone hand in hand with an increased feminization of labour migration, as more and more women migrate not as accompanying family members but as workers. The general increase in labour migration poses significant challenges to unions' organizing strategies (see box 4.10).

#### ► **Box 4.9 Organizing temporary workers**

Inspired by the organizing model in the United States, many unions in Europe have undertaken campaigns targeting workers with temporary contracts and in a precarious situation, such as security guards in Hamburg, Germany, call centre workers in Austria, cleaners and meatpackers in the Netherlands, workers in fast food outlets and shopping centres in France, retail workers in Poland, sales workers in Sweden, hotel workers in Ireland and meatpackers in the United Kingdom (Connolly, Marino and Martinez Lucio 2017; Czarzasty, Gajewska and Mrozowski 2014; Holtgrewe and Doellgast 2012; Murphy and Turner 2016). Realizing that agency work had become a permanent feature which undermined its bargaining position, the German metalworkers' union, IG Metall, launched a campaign entitled "Equal Work – Equal Pay", during which many agency workers joined the union (Benassi and Dorigatti 2015). This was one of the changes in policy that helped the union to raise its profile again and to attract new members (Schmalz and Thiel 2017).

#### ► **Box 4.10 Organizing migrant workers**

Since about 2000, trade unions have become more active in representing and defending the rights of migrant workers. In particular, the American Federation of Labor and Congress of Industrial Organizations, the European Trade Union Confederation (ETUC) and various global union federations have adopted a pro-immigrant stance aimed at improving the rights and conditions of migrant workers (Donnelly 2016). The effective enforcement of employment standards has come to be seen as a more effective way of protecting the labour market than migration control, which tends to create irregular flows that are difficult to monitor (Milkman 2006).

In a recent study drawing on European Values Survey data for 2008–09 (that is, the years of the Great Recession), Gorodzeisky and Richards (2020) find that migrant workers in Europe place a high level of trust in trade unions, more so even than domestic workers, and that this is also true of migrants from countries in Central and Eastern Europe who may hold sceptical views of unions in their countries of origin. In several Western European countries – for example, Belgium, France, Italy, the Netherlands and the United Kingdom – trade unions have become vocal supporters of the rights of migrant workers (Marino, Roosblad and Penninx 2017; Jacobson and Geron 2008; Tapia and Turner 2013).

In China, informal workers have fought for improved rights and the recognition of rural-to-urban migrants. Until 2003, these workers were excluded from China's sole legal trade union organization, the All-China Federation of Trade Unions (ACFTU). By 2007, four years after the ACFTU opened its doors to migrants, 70 million migrant workers had managed to register as members. Migrant workers in China have also set up alternative organizations, such as the Migrant Worker Documentary Centre, which collects data on working conditions, organizes workshops on domestic and international laws, monitors codes of conduct, and provides legal assistance in labour disputes and claims for unpaid wages (Agarwala 2014). In the Hong Kong Special Administrative Region, China, local domestic workers joined Filipino, Nepali and Thai migrant women and formed the Federation of Asian Domestic Workers' Unions.

It is also challenging for unions to organize platform workers (see box 4.11). The size of the platform economy cannot be readily measured, but it is growing (ILO 2021c). During the pandemic, platform work gained further prominence – for instance, in the delivery of food, parcels and medicines. Clearly, the proliferation of this kind of work is no isolated trend but represents a major change in employment relations in response to the opportunities opened up by new technologies for consumers, firms and workers. Since platform workers tend to be in insecure forms of work, it is

often difficult to organize them. As emphasized in the ILO Centenary Declaration for the Future of Work, *all* workers should enjoy freedom of association and the effective recognition of the right to collective bargaining (ILO 2019b). In addition, the need to ensure that those fundamental rights are guaranteed to platform workers has been stressed by the ILO supervisory bodies (ILO 2020a, para. 327; see also Chapter 2, box 2.4).

Trade unions have fought alongside platform workers and won important court cases to have platform workers reclassified as employees so that platform enterprises assume responsibility for the protections afforded to these workers by labour law (Vandaele 2018). In December 2021, the Supreme Court in India agreed to hear a petition filed by one union representing 20,000 home delivery workers, which called for social security benefits to be extended to workers of app-based platforms (Chaturvedi 2021). In July 2020, the UK High Court of Justice granted an appeal by the Independent Workers' Union of Great Britain and later that year in November it ruled that the Government had failed to properly transpose EU directives by not extending rules on health and safety protections to platform workers during the pandemic. In February 2021, a ruling in the UK Supreme Court unanimously upheld the finding of an employment tribunal that drivers working for the platform company concerned fell under limb (b) of Section 230 (3) of the Employment Rights Act and were therefore entitled to a range of statutory employment rights.<sup>9</sup> In May 2021, following social dialogue between the trade unions and EBMOs, the Government of Spain approved the "Riders' Law", which presumes home delivery platform workers to be employees with all the traditional rights of association, representation, collective action and negotiation. Subsequently validated by the Congress of Deputies, the new law establishes the rights of such workers to periods of leave and requires companies to pay social security contributions on their behalf. The ETUC has proposed similar legislation at the EU level to provide for a rebuttable presumption of an employment relationship in the case of platform workers, with the burden of proof to be borne by the platform company (ETUC 2021a). In December 2021, the European Commission addressed the issue of misclassification in the employment status of platform workers and proposed a set of measures, including the rebuttable presumption of an employment relationship called for by the ETUC. This status would guarantee to platform workers the right to a minimum wage (where it exists), freedom of association and collective bargaining, working-time and health protection, the right to paid leave, protection against work accidents, unemployment and sickness benefits, and contributory old-age pensions (EC 2021).

#### ► Box 4.11 Trade union initiatives for platform workers

The German metalworkers' union, IG Metall, and various unions in Austria and Sweden have jointly launched a website called "Fair Crowd Work" (<http://faircrowd.work/>), where platform workers can evaluate their experience of working for platforms. These unions have had some success in persuading various platforms to sign a crowdsourcing code of conduct. As at September 2021, nine platform companies had signed the code of conduct and the German Crowdsourcing Association had joined the initiative as an official supporter.

Together with the Competence Centre on the Future of Work of the Friedrich Ebert Foundation in Berlin, the European Federation of Food, Agriculture and Tourism Trade Unions organized an online training course in September 2021 for mostly young gig workers in the agrifood sector in Eastern and South-Eastern Europe (Klinkenberg 2021).

The app-based transport industry in Indonesia, which operates largely outside the legal and organizational framework of the formal industrial relations system, has in recent years been characterized by a remarkable capacity for self-organizing, mutual aid and grassroots community participation of online drivers, which stands in stark contrast with the decrease in union membership and participation in the formal sector (Ford and Honan 2019).

In Spain, newly created associations of platform workers (Riders X Derechos and Free Riders) collaborate with traditional unions such as Intersindical Valenciana, Intersindical Alternativa de Catalunya, the General Union of Workers (Unión General de Trabajadores) and the Workers' Commissions (Comisiones Obreras).

In Ghana, online ride-hailing drivers are organized in around 16 online drivers' associations (the earliest established in 2018), some of which are affiliated to the Ghana Trades Union Congress.

<sup>9</sup> United Kingdom, Supreme Court, *Uber BV and others v. Aslam and others*, Judgment of 19 February 2021. In a slightly later ruling, the Court of Appeal, which is the highest court in the United Kingdom below the Supreme Court, did not classify bicycle delivery riders working for another platform as workers, thereby preventing the effective recognition of their collective bargaining rights (United Kingdom, Court of Appeal, *Independent Workers' Union of Great Britain v. Central Arbitration Committee and Rooffoods Ltd trading as Deliveroo*, Judgment of 24 June 2021).

It has been estimated by the ILO (2018f) that 61 per cent of total employment worldwide is informal, that is, without registration or adequate social protection, with the informality rate ranging from 86 per cent in Africa to 25 per cent in Europe and Central Asia. In a recent study, Spooner, Montague-Nelson and Whelligan (2021) list numerous factors that prevent unions from engaging with informal workers, including the absence of a specific employer, the fear that informal workers by sheer force of numbers will take over the union, issues of status and prestige, and the inability of informal workers to pay union dues. Since 2000, many unions in Africa, Asia and Latin America have expanded their activities to include workers in the informal economy and begun cooperating with other organizations defending the interests of such workers. In an overview of organizing efforts targeting domestic, itinerant, informal and migrant workers in Brazil, Canada, China, India, Mexico, South Africa and the United States, Agarwala (2014) observes a turn from exclusionary to inclusive unionism from the 2000s onwards. In East and West Africa there have been attempts by teaching and transport unions to organize own-account workers such as bicycle couriers and minibuss drivers. Other examples concern agricultural workers and day labourers in the Plurinational State of Bolivia, Colombia, the Dominican Republic, Honduras, Nepal and Paraguay. In Canada, the United Food and Commercial Workers and the Agricultural Workers Alliance have set up ten centres for migrant farmworkers, one of which has provided a path to permanent residency for temporary foreign workers.

Over the past 30 to 40 years, there has been a steep fall in the unionization rate of young people in high-income countries (OECD 2019b; Visser 2019). The average union density rate among those aged between 16 and 25 years in 28 high-income countries has halved in one generation, decreasing from 21 per cent in 1995 to 11 per cent in 2015 (see figure 4.5), and in half of those countries fewer than 7 per cent join a union. As a result, the average age of union members has risen to over 45 years and, on average, one fifth of all union members are close to retirement: their number is three to four times higher than that of members who have joined unions in the past five to ten years. Such demographic trends as low birth rates and ever-smaller cohorts entering the labour market are putting additional pressure on unions in high-income countries. This part of the problem does not exist in, say, Africa, where over half of the population in many countries are aged under 25 years. The pressing issues for unions there are, rather, the lack of decent employment and the emigration of young people.

#### ► Box 4.12 Organizing young people

Organizing young people is key to any strategy for union renewal. A recent campaign launched by the ETUC Youth Committee) in cooperation with the Friedrich Ebert Foundation opens with a dramatic message: “Trade unions face an existential crisis: either we recruit new, young members in considerable numbers, or within a matter of decades we will no longer exist as mass-membership organisations” (FES 2021, 2). Affiliated organizations are urged to undertake youth campaigns, collect data on the situation of young people, identify potential members and the places where they live and work, and develop peer-to-peer contacts and approaches that use the language and communication style of young people. The ETUC Youth Committee also recommends that unions build and develop youth structures internally, allocate resources and facilitate the participation of young people in decision-making and, last but not least, forge alliances within and outside the union movement to address topics of concern for young people. Examples of alliances of this kind are the Retail Action Project in the United States, the Fast Food Rights campaign in the United Kingdom, the Stand Up movement in New Zealand and the Young Workers Centre in Australia. In the wake of the Great Recession in the late 2000s, many young people, hit hard by austerity measures and record youth unemployment, began to engage in protests and movements outside and sometimes in opposition to trade unions. For example, in the United States, urban workers’ centres formed the Young Workers United coalition; in Italy, there was the “San Precario” movement, and in Spain, “Juventud sin Futuro”, a movement that denounced the precarious situation of young people (Antenas 2014; della Porta, Baglioni and Reiter 2015).

The organizing efforts of unions must be seen in context. Many of these are similar across the world: for example, campaigns to recruit new members; the building of coalitions on specific themes together with non-union organizations; organizational renewal; the establishment of labour-management partnerships; transnational solidarity; and various forms of political action. However, these efforts face some quite formidable challenges arising from non-respect for fundamental workers’ rights, the absence of an enabling environment, inadequate enforcement mechanisms, ethnic and religious conflicts, and the massive numbers of informal workers.

SDG indicator 8.8.2 (for which the ILO is the custodian agency) measures the level of national compliance with fundamental rights at work, specifically with freedom of association and the right to collective bargaining, as laid down in Conventions Nos 87 and 98. It has a range from 0 to 10, with 0 being the best possible score (indicating higher levels of compliance with freedom of association and collective bargaining rights) and 10 the worst (indicating lower levels of compliance with these rights). The indicator is based on the coding of textual information from ILO supervisory bodies and also national legislation (see Chapter 2, box 2.4).<sup>10</sup> Comparing 2020 measures of SDG 8.8.2 with union density rates at national level, it is clear that countries with low compliance with freedom of association and collective bargaining rights (that is, higher scores under SDG indicator 8.8.2) also exhibit low union density rates, for the countries with available data. And while not a sufficient condition, it may be concluded that **compliance with freedom of association and the right to collective bargaining is very much a necessary condition for inclusive unionization** (see Visser, forthcoming).

### 4.2.3 Trade unions: Their role in collective bargaining and beyond

Workers organize at different levels – the international, national and local levels, which may be further divided into regional and subnational levels – and across different industries and occupations.

National trade union confederations generally perform common tasks, such as lobbying on behalf of the labour movement and representing unions in national and international political and administrative bodies, offering services for their affiliates and individual members (including training and education, legal advice, research and, in some cases, recruitment campaigns), and adjudicating on disputes between affiliates over domain demarcation and bargaining jurisdiction. Many confederations have a coordinating function, which involves setting the agenda and

proposing wage demands in annual bargaining rounds and providing statistics, research and information. Nowadays, confederations rarely negotiate central agreements themselves – if they do, it is mostly on non-wage issues, as in the agreements and social pacts concluded during the COVID-19 pandemic (for instance, on the reduction of working hours and furlough schemes, teleworking, and health and safety measures). The key role in the coordination of collective bargaining, however, is played by national unions through their elected or appointed officers, even when the negotiations take place at the enterprise level. The decentralization of wage bargaining over the past few decades has led to a greater involvement of local, workplace-based union representatives or, in some cases, works councils elected by the entire workforce of an enterprise.

### Negotiating fair wages and decent working conditions

Collective bargaining is the central activity of trade unions. Through such bargaining, trade unions aim to establish a wage floor in the labour market for a particular occupation, sector or country, and over time they progressively negotiate wages above that floor. Trade unions also strive to standardize wage rates across workers and fight for equal pay for work of equal value to diminish competition among workers (Visser and Checchi 2011; Streeck 2005). By linking wage increases to productivity, trade unions seek to ensure that workers receive a fair share of the income growth of their country or enterprise. These efforts by unions help to reduce inequality, especially when unions are strong and are able to bring minorities into the fold.

Some trade unions are also helping to reduce income inequality for workers in the informal economy, both by ensuring compliance with minimum wages and by representing such workers in negotiations with local authorities (see box 4.14).

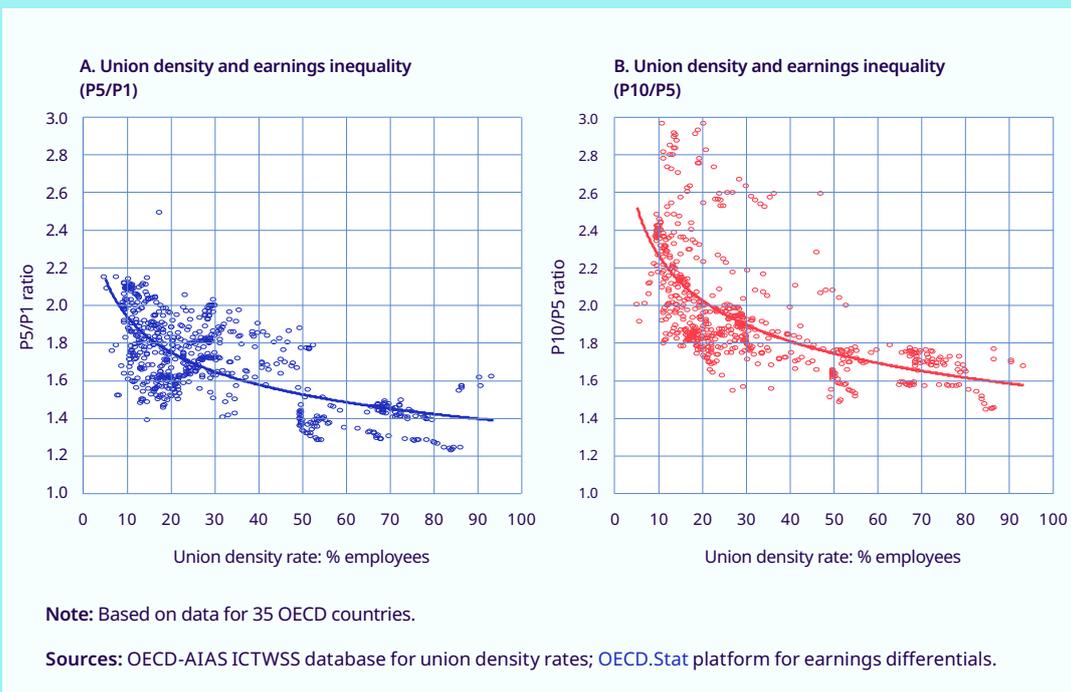
<sup>10</sup> As adopted in ILO (2018d, 17–18), “SDG indicator 8.8.2 seeks to measure the level of national compliance with fundamental labour rights (freedom of association and collective bargaining). It is based on six International Labour Organization (ILO) supervisory body textual sources and also on national legislation. National law is not enacted for the purpose of generating a statistical indicator of compliance with fundamental rights, nor were any of the ILO textual sources created for this purpose. Indicator 8.8.2 is compiled from these sources and its use does not constitute a waiver of the respective ILO Constituents’ divergent points of view on the sources’ conclusions. [...] SDG indicator 8.8.2 is not intended as a tool to compare compliance among ILO member States. It should specifically be noted that reporting obligations of an ILO member State to the ILO’s supervisory system and thus ILO textual sources are different for ratifying and non-ratifying ILO member States.”

### ► Box 4.13 Trade unions and inequality

A consistent empirical finding in the literature is that, across countries and over time, unionization is associated with smaller earnings differentials, as measured by ratios of percentiles from the wage distribution (Blau and Kahn 1996; Card, Lemieux and Riddell 2004; Farber et al. 2018; Pontusson and Rueda 2010; Pontusson 2013; Western and Rosenfeld 2011).

“Labor unions are associated with more compressed distributions of wages and incomes, both before and after government taxes and spending”, writes Ahlquist (2017, 426) in his summary of the literature, continuing: “In their industrial and collective bargaining activities, unions have been able to raise wages and compress the overall income distribution, including slowing the relative growth in top incomes”. Figure 4.6 updates the similar charts presented by Ahlquist (2017) by extending the data to the year 2020 and to 35 OECD countries. It plots the union density rate against wage inequality for each country and year (for a total of 697 observations), with panel A (left) showing the lower half of the gross wage distribution (the ratio of the median to the 10th percentile of gross earnings) and panel B (right) the upper half (the ratio of the 90th percentile to the median). The relationship is clearly negative: higher union density rates are associated with lower levels of earnings inequality, the correlation being stronger in the bottom half ( $r = -0.63$ ) than in the upper half ( $r = -0.54$ ). This negative relationship between earnings inequality and union density holds both across and within countries over time, though the within-country relationship appears to be weakening, a finding also reported by Pontusson (2013) for a group of OECD countries.

► Figure 4.6 Earnings inequality versus union density rate, selected countries, 1980–2020



#### ► **Box 4.14 Unions and earnings in the informal sector in India**

In a rare study of the informal sector, Chattaraj (2016), drawing on data from the Employment and Unemployment Situation in India survey conducted in 2004–05, finds that union membership is associated with significant earnings advantages. This is the result not so much of collective bargaining with employers as of the pressure exerted by unions on the authorities to ensure that minimum wage regulations are enforced. Additionally, thanks to their political networks, unions are able to secure more remunerative work opportunities in street vending, construction and transport for their members. However, since many unions are male-dominated, it is above all male workers who benefit from these advantages. India's informal workforce is very diverse and includes street vendors, daily-wage construction workers, domestic workers working for global value chains, small-scale entrepreneurs, piece-rate workers and jobbers, artisans and crafts producers, as well as middle-class professionals running businesses from their homes. What they all have in common, though, is that they lack the benefits, social security and health protections available to workers in formal employment (Unni and Rani 2002). While male workers are distributed across the full range of the informal workforce, women are disproportionately concentrated at the bottom end. Men and women within the informal workforce tend to belong to different unions. Informal male workers join traditional unions if they can (Sen 2012), whereas women in the informal economy tend to join women-only organizations, such as the Self Employed Women's Association, which expressly recruit and organize poor and low-income women.

### **Social dialogue, social pacts and the COVID-19 crisis**

Trade unions are not only actors in collective bargaining, they also shape the regulatory environment within which such bargaining takes place. They campaign for rights and better conditions; lobby political parties and governments for support, legislation and the implementation of minimum and living wages; and represent workers on various councils or boards (some tripartite, where they negotiate with employers and ministers, government officials or government-appointed experts, others bipartite, where they negotiate only with employers). In addition to bargaining and lobbying, trade unions through their local organizations are also involved in the implementation and monitoring of compliance with what has been agreed in the workplace, and they represent members in court, in tribunals and on arbitration boards. Many trade unions, moreover, offer education and training for their members and advice and support to elected worker representatives in an enterprise. Some provide their members with insurance against unemployment and sickness, and pay benefits to their families in the case of a workplace fatality.

Social dialogue and tripartite forums can be important platforms for cooperation between unions and serve as a springboard for social and political engagement. Relevant examples of such initiatives are the Action Committee for Social Security Reform in Indonesia, an alliance of national trade unions that successfully campaigned for reforms of the social security system

and the National Coalition against the Privatization of Water in Ghana, which brought together several unions and civil society organizations, educating members on issues beyond wage earning and increasing general political literacy.

Many union confederations in Europe negotiate non-wage agreements and social pacts with employers and governments, thereby paving the way for legislation on active ageing and pension reform, employment protection, vocational education and training policies, OSH strategies, unemployment insurance, and the ratification and implementation of international labour Conventions (Avdagic, Rhodes and Visser 2011). Since 1996, the ETUC has negotiated ten framework agreements setting the terms for subsequent EU legislation or national regulations on such topics as parental leave (1995 and 2009), part-time work (1997) and fixed-term contracts (1999); several of them are "autonomous" agreements, to be implemented by the social partners themselves, and deal with telework (2002), work-related stress (2004), harassment and violence at work (2007), inclusive labour markets (2010), active ageing (2017) and digitalization (2020). The last-named agreement covers digital skills and securing employment; modalities of connecting and disconnecting; artificial intelligence and guaranteeing the "human in control" principle; and respect of human dignity and surveillance. In addition, three frameworks of actions have been negotiated by the European social partners, dealing with lifelong development of competencies and qualifications (2002), gender equality (2005) and youth employment (2013). Many of

► **Box 4.15 The role of unions in enforcing standards**

Union presence in the workplace has been found to improve the level of compliance with minimum wage laws and other labour market standards in the United States (Weil 1999; Fine and Gordon 2010). A similar effect may be observed in India, where unions have been organizing workers in the informal sector and putting pressure on public officials to enforce standards (Chattaraj 2016). The presence of independent workers' organizations contributes to the quality of labour standards in international supply chains (Berliner et al. 2015). Unions also have specialist knowledge to offer – for instance, on how to use labour clauses in preferential trade agreements<sup>1</sup> or the monitoring mechanisms provided by the ILO or the OECD (Raess, Dür and Sari 2018). In healthcare, the unionization of nurses is associated with improvements in health outcomes, such as lower mortality rates (Seago and Ash 2002) and fewer hospital-acquired illnesses (Dube, Kaplan and Thompson 2016).

<sup>1</sup> For examples of union involvement in trade agreements, see ILO (2017b).

these “modernizing” agreements were followed up at the national level by trade unions and other partners (ETUC n.d.).

The capacity of unions to act together through social dialogue has proved especially relevant during the COVID-19 pandemic (ILO 2021g). Policy issues on which the input of trade unions was extremely important included short-time work and furlough schemes; conditions for tele-

working; safety guidelines for front-line workers who were in close contact with co-workers, customers and patients; improvements in sick pay for workers sent home; better protection for temporary agency workers, freelance and contract workers, the self-employed and informal workers; and the working and living conditions of migrant seasonal workers in agriculture and meat-processing plants (ILO 2020g).<sup>11</sup> Unfortunately, trade unions have reported a number of instances in which they were undermined and their rights restricted during the pandemic. According to the 2021 Global Rights Index of the International Trade Union Confederation (ITUC), there have been situations where the government bypassed the unions (for instance, in India, Poland, Thailand or the United Kingdom), or where the pandemic was used as a pretext for curtailing union and workers' rights (for example, in Myanmar, Nigeria and Zimbabwe) and for suspending consultations and avoiding social dialogue (for instance, in Croatia, Hungary, Indonesia, Poland, Romania and Turkey) (see box 4.16; ETUC 2020).

Trade unions bring to the bargaining table not just their expertise and knowledge of detail, but also crucial social support and the ability to provide legitimacy for difficult or unpopular measures. By representing the collective interests of workers, they can promote trust in and compliance with policies that would otherwise need to be enforced by law and the efforts of labour administration at considerable cost. The protests during lockdowns and reopenings have shown that governments cannot impose such measures on their own but need intermediaries. Negotiated policies enable governments and the social partners to find tailored and fair solutions, which tend to command greater support.

► **Box 4.16 ITUC Global Rights Index**

The ITUC 2021 Global Rights Index, which ranks 149 countries against internationally recognized indicators to assess where workers' rights are best protected in law and in practice,<sup>1</sup> highlights a number of negative trends. More trade union rights violations and exclusions were reported for 2021 than for previous years. No fewer than 110 countries (compared with 82 in 2016) prevented some groups of workers from exercising their right to establish and join a trade union. The 2021 edition of the Index also mentions many incidents where basic rights of assembly and striking were curtailed or denied during the COVID-19 pandemic, sometimes in situations where union organizers tried to secure safe working conditions for workers delivering key services during lockdowns or to obtain sickness allowances for workers forced to self-isolate.

<sup>1</sup> See the landing page for the 2021 Global Rights Index on the ITUC website, <https://www.ituc-csi.org/2021-global-rights-index>.

<sup>11</sup> See also the “Activities of workers' organizations” section in the ILO repository of country policy responses to COVID-19, <https://www.ilo.org/global/topics/coronavirus/regional-country/country-responses/lang--en/index.htm#AL>.

# 4.3

## Restructuring and renewal

Both EBMOs and trade unions have been grappling with the transformations that are under way in labour markets. Technological advances, the greening of economies, demographic change and ever-increasing global competition have all significantly changed the landscape in which they seek to represent the interests of enterprises and workers, respectively. To these challenges one may add the skills shortages in some regions and the long-standing prevalence of informality in others. The COVID-19 crisis, including the associated lockdowns, has sorely tested the operating capacity and resilience of social partner organizations. These transformations and persistent issues present opportunities as well as difficulties for such organizations, both in terms of organizing and representing the interests of their members and in terms of developing the capacity to tackle emerging challenges. **Over the past two decades, EBMOs and trade unions have been undergoing significant restructuring and renewal. They have adapted themselves to an increasingly diverse membership and are offering new services.**

**Originally established as organizations that focused on labour market policy at the sectoral, national and international levels, EBMOs have evolved to represent the interests of enterprises on matters related to the product and labour markets** (Brandl and Lehr 2019). This internal restructuring has enabled the consolidation of their membership on the one hand, and helped them to adapt their services on the other. For example, most recently, EBMOs have been at the forefront of policy debates on the ongoing digital transformation and the related topic of telework. Policies to support skills development as well as productivity growth are also high on their advocacy agenda. By organizing and working together with informal enterprises, they have facilitated the transition of these to the formal economy. In countries with multi-level bargaining systems, as collective bargaining has decentralized, so their role has evolved from

direct governance through collective agreements to indirect governance through the sharing of information and other services, facilitating both horizontal and vertical coordination. At the same time, they have adapted to cater to the interests of both SMEs and large multinational enterprises.

Trade unions remain the world's largest membership interest organizations, boasting membership numbers that far exceed those of political parties. After a long period of decline, trade union membership has stabilized in recent years, and even increased in some countries. **An important new trend is the evolution of trade unions to encompass the most vulnerable and low-paid workers in labour markets, informal workers, migrant workers, domestic workers, those in diverse work arrangements (including fixed-term and temporary contracts) and, most recently, platform workers.** Women now account, on average across countries, for a much higher share of trade union members than at any other point in history. As discussed in Chapter 3, this has had a direct impact on the collective bargaining agenda, leading to significant advances in some countries on strategies to close the gender pay gap, on parental leave and on measures to combat violence and harassment at work. However, during the pandemic, with the exception of balancing work-family conflicts, concerns over gender equality have once again been placed on the back-burner (see Chapter 5). As the solidaristic organizations that they are, trade unions have also entered into strategic alliances with other organizations to advance the quest for social justice.

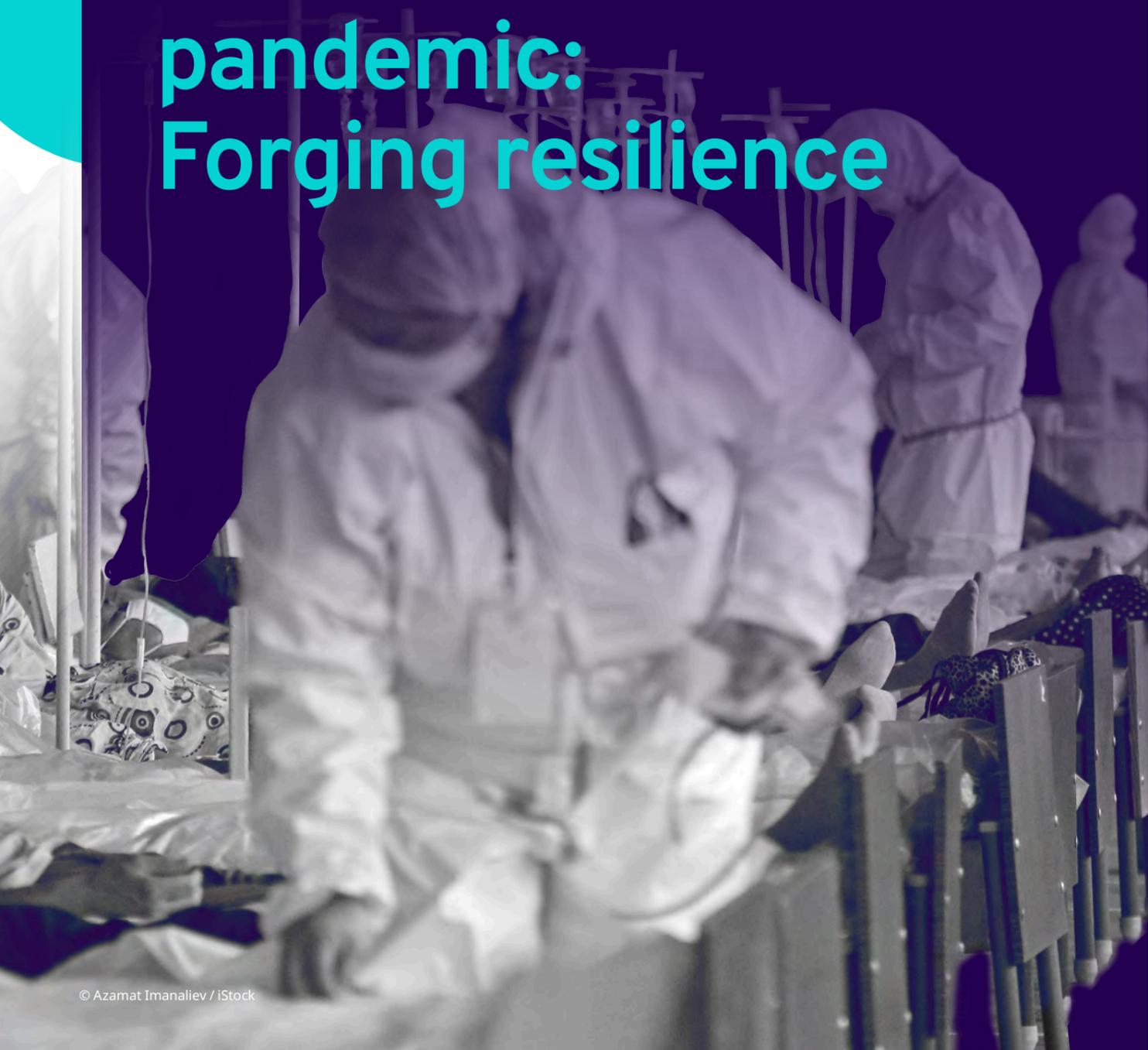
*In conclusion, both EBMOs and trade unions face considerable challenges in integrating the interests of an increasingly diverse membership. However, their responsiveness and institutional resources have enabled them to fulfil a critical representative function in the policy debates on ongoing transformations. Their roles in collective bargaining range from the shaping and influencing of the regulatory environment and policies, the coordination of bargaining processes and the provision of relevant services for their members, to the negotiation of collective agreements. They are also key players in the international normative framework that gives effect to the fundamental principles and rights at work, including freedom of association and the effective recognition of the right to collective bargaining. Regulatory frameworks that ensure that these fundamental rights can be exercised are a prerequisite for EBMOs and trade unions to contribute to the inclusive and effective governance of work. As Chapter 5 shows, where there is freedom of association, and where these organizations are well equipped to fulfil their*

*representative, leadership and advocacy roles, they have been able, together with governments, to rise to the unprecedented challenges thrown up by the pandemic in 2020 and 2021. Their strength, capacity and representational legitimacy are critical to a human-centred recovery that is inclusive, sustainable and resilient.*

# Collective bargaining and the COVID-19 pandemic: Forging resilience

On 11 March 2020, the World Health Organization declared the outbreak of the coronavirus disease (COVID-19) to be a global pandemic. Both the pandemic and the public health measures adopted to contain transmission have had dramatic effects on the world of work, on business continuity and, depending on the sector and activity, on workers' health and income security. Millions found themselves working on the front lines in the battle against the pandemic, directly exposed to the virus and the associated health risks. The ILO estimates that during the second quarter of 2020, 557 million people switched from working on site to tele-

working from home, accounting for 17.4 per cent of global employment (ILO 2021h). However, many workers were in occupations that could not be performed remotely. As a result, millions had their work suspended or lost their employment altogether. According to ILO estimates, working-hour losses in 2020 were equivalent to a staggering 355 million full-time jobs (ILO 2021i).



Enterprises faced significant income losses and rising levels of debt as a result of public health measures.<sup>1</sup> Many have had to divert funds to the acquisition of personal protective equipment (PPE) and meeting other COVID-19-related costs, to the detriment of investments aimed at increasing productivity (ILO 2021i, 92). The containment measures hit small enterprises the hardest, with many reporting insufficient funds to maintain business continuity (ILO 2020h, 22). The threat to business continuity, employment and earnings has been most pronounced in the sectors severely affected by the crisis, including accommodation and food services, wholesale and retail trade, and construction and manufacturing (ILO 2021i, 88). The impact of the crisis on workers has been catastrophic and the labour market situation is still dire in 2022: there remains a global deficit in hours worked equivalent to 52 million full-time jobs, relative to the fourth quarter of 2019 (ILO 2022).

While all enterprises and workers have been affected, they have not been affected equally. Many workers were left with no means of earning a living, while others were able to maintain their income, in part owing to the extraordinary measures taken by governments – in some instances in consultation with workers’ and employers’ organizations. The result has been deepening inequality within and across countries (ILO 2021i; OECD 2021; ECLAC 2021; ILO 2021j). Workers in insecure forms of work, own-account workers in the informal economy, and workers in occupations where only a small part of the work could be

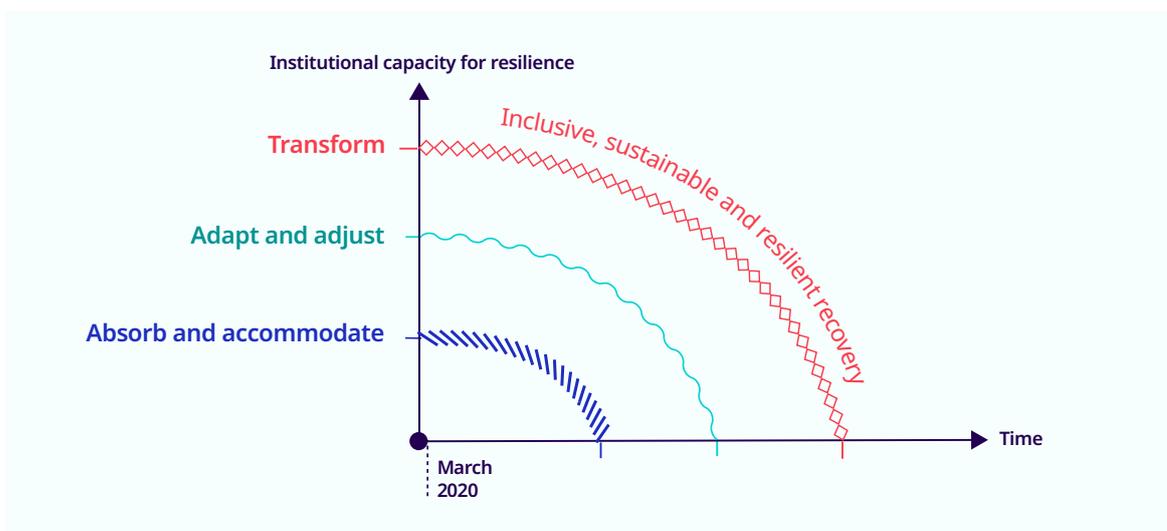
done from home were more likely to have their hours reduced (Adams-Prassl et al. 2020; ILO and ECLAC 2020; ILO 2020i). The disproportionate effects of the crisis on female-dominated sectors, such as domestic work, food services, accommodation and hospitality, and, in some regions, garment and textile production (ILO 2020j), together with the increased burden in unpaid care work, threatens to reverse recent achievements in gender equality (Eurofound 2020b; ILO 2021k; ILO and ECLAC 2020).

**As successive waves of infection frustrated hopes of a rapid turnaround in 2020 and 2021, collective bargaining parties came to the negotiating table, or connected to online rooms, facing a highly uncertain economic and social outlook.**

Evidence from previous studies suggests that collective bargaining can play a significant role in forging resilience (OECD 2017; Aidt and Tzannatos 2002). Collective bargaining enables the parties to agree on and establish arrangements that offer procedural and substantive certainty to both employers and workers (Marginson, Keune and Bohle 2014). It can facilitate the necessary trade-offs between costs on the one hand, and the protection of employment and earnings on the other, particularly where the bargaining is integrative and coordinated (Glassner and Keune 2012).

This chapter analyses the role that collective bargaining has played in forging resilience<sup>2</sup> during the COVID-19 crisis – specifically the way in which it provided countries, sectors and workplaces

► **Figure 5.1 Forging resilience during the COVID-19 crisis**



1 These measures included lockdowns (that is, stay-at-home orders, cordons sanitaires, curfews and the closure of workplaces and schools), the closure of borders and other non-pharmaceutical interventions.

2 For the ILO, “the term ‘resilience’ means the ability of a system, community or society exposed to hazards to resist, absorb, accommodate, adapt to, transform and recover from the effects of a hazard in a timely and efficient manner [...]” (Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), Para. 2(b)).

with the institutional capacity to absorb and adapt to the effects of the crisis during the first 18 months of the pandemic and transform practices for a human-centred recovery (see figure 5.1).

The chapter provides an insight into the dynamic trajectories taken by the bargaining parties as they confronted an unprecedented health, social and economic crisis. It also discusses the transformative solutions agreed to in the short term that may indeed mitigate the effects of COVID-19 on inequality in the medium to long term. Looking forward, it examines how collective bargaining is shaping future telework and hybrid working practices, enabling employers and workers to seize the opportunities that lie ahead. **The report finds that while collective bargaining can contribute to an inclusive, sustainable and resilient recovery, the magnitude and direction of this contribution depend very much on the institutional context and support given to collective bargaining.**

This chapter draws on the study of 21 countries from different regions of the world and at different levels of development (see Appendix IV); the textual analysis of over 500 collective agreements signed between January 2020 and December 2021 (see Appendix V); a survey of employers' organizations (see Appendix III) and trade unions (ILO 2021d); semi-structured interviews with representatives of public agencies, employers' organizations and trade unions; and secondary sources.

Although the extent to which employers and their organizations and trade unions used collective bargaining to respond to the COVID-19 crisis varied considerably, five broad themes emerge from the analysis (see table 5.1). First, the responsiveness of bargaining practices and agreements enabled the parties to absorb the shock and adapt. The second theme refers to measures negotiated to secure the continuity of services required for the health and safety of the population, and to protect and value front-line workers. Third, measures were agreed to ensure safe and healthy workplaces, for both on-site and remote work. Fourth, the negotiated responses aimed at safeguarding business continuity, retaining skills and know-how, preserving employment and protecting earnings. The fifth and final theme concerns the role that collective bargaining is playing in shaping future work practices, such as decent telework and inclusive models of hybrid work, for which there are many lessons to be learned from the arrangements tried out during the crisis.

# 5.1

## Negotiating throughout the COVID-19 pandemic

Social policy responses have been central to the management of the COVID-19 crisis, both in terms of reinforcing compliance with public health measures and in terms of ensuring adequate income during work disruptions and a return to normal life and work as restrictions are lifted (Greer et al. 2020). **The extent to which industrial relations actors contributed to these responses through collective bargaining has been in line with pre-existing institutional patterns. Industrial relations systems that before the pandemic had delegated certain social policy issues to employers, employers' organizations and trade unions have tended to rely on these institutions as part of the response to the COVID-19 crisis – in particular, by engaging peak-level actors in tripartite and bipartite social dialogue, and promoting collective bargaining. In these cases, collective bargaining has been used proactively and has proved responsive to both the health emergency and the deteriorating economic situation.**

The adaptation of processes and procedures, despite the constraints imposed by the pandemic, has enabled the parties to tackle the effects of the crisis. This has been supported by statutory measures (for example, employment retention schemes). In other cases, though, unprecedented state action has reduced the space for collective bargaining (Ford and Ward 2021; O'Neil 2021). There are also countries in which collective rights have been curtailed by emergency measures (see box 5.1).

► Table 5.1 Collective bargaining: Institutional capacity for resilience

	Theme	Potential contribution of collective bargaining and collective agreements to an inclusive, sustainable and resilient recovery
Absorption	<b>Adapting collective bargaining practices to the COVID-19 pandemic context</b>	<ul style="list-style-type: none"> <li>▶ Adjustments to the renewal of agreements</li> <li>▶ Adjustments to procedures and practices</li> <li>▶ Responsiveness of collective agreements</li> </ul>
	<b>Protecting front-line workers, sustaining key services</b>	<ul style="list-style-type: none"> <li>▶ Agreement to occupational safety and health (OSH) measures to protect workers most exposed to COVID-19</li> <li>▶ Facilitate changes in work organization, adjustment of working time and redeployment to ensure continuity of services</li> <li>▶ Access to healthcare and sick leave</li> <li>▶ Inclusive labour protection for workers in temporary employment and sub-contracted (third party) work arrangements</li> <li>▶ Timely prevention and resolution of labour disputes to ensure stability and continuity</li> <li>▶ Coordinated bargaining for a systemic response to increased demands on healthcare services</li> <li>▶ Addressing undervaluation of low-paid female-dominated occupations</li> <li>▶ Improvements in work processes and investment to sustain services</li> </ul>
	<b>Ensuring safe and healthy workplaces</b>	<ul style="list-style-type: none"> <li>▶ Facilitate implementation of national, industry and organizational OSH protocols aimed at prevention and control</li> <li>▶ Facilitate the tailoring of, and compliance with, national OSH protocols and guidelines</li> <li>▶ Access to healthcare and paid sick leave</li> <li>▶ Offer protection to and continued inclusion of workers at risk</li> <li>▶ Rapid adaptation and implementation of work organization and practices (such as telework) and safe return-to-work protocols</li> </ul>
Adaptation	<b>Preserving employment, protecting earnings, safeguarding business continuity</b>	<ul style="list-style-type: none"> <li>▶ Rapid implementation of employment retention measures to support business continuity and protect earnings</li> <li>▶ Tailor income replacement and employment retention measures to the needs of the sector, employer and workers</li> <li>▶ Facilitate time-bound trade-offs such as wage moderation, temporary lay-offs and reductions in working hours in exchange for employment guarantees</li> <li>▶ Maintaining social protection during temporary lay-offs and short-time work to mitigate risk and protect pooled investments</li> <li>▶ Creation of solidarity funds to protect minimum income threshold for low-wage workers (mitigating potential effects on inequality)</li> <li>▶ Renewal of fixed-term or temporary contracts (mitigating potential effects on inequality)</li> <li>▶ Balancing work and care responsibilities to address the disproportionate effect of the crisis on women (mitigating potential effects on inequality)</li> <li>▶ Facilitate employment retention and skills development for inclusive recovery</li> <li>▶ Procedural clauses related to recovery facilitate worker commitment and retention of firm-specific skills</li> </ul>
Transformation	<b>Shaping future telework and hybrid work practices</b>	<ul style="list-style-type: none"> <li>▶ Learning lessons from teleworking during the COVID-19 crisis for decent telework and hybrid work practices</li> <li>▶ Agreement on arrangements that capture productivity and cost benefits for employers and provide greater autonomy to workers</li> <li>▶ Facilitate equal treatment of on-site workers and teleworkers (mitigating potential effects on inequality)</li> <li>▶ Integration of on-site and telework workforce</li> <li>▶ Co-regulation of working-time schedules and OSH requirements for productive and decent telework practices</li> <li>▶ Training and skills development to facilitate inclusive transitions</li> <li>▶ Participation in performance-enhancing changes in work practices and sharing of productivity gains</li> </ul>

► **Box 5.1 Observations of the ILO Committee of Experts on the Application of Conventions and Recommendations**

During its meetings in November–December 2020 and November–December 2021, the Committee of Experts on the Application of Conventions and Recommendations (CEACR) took note of the information provided by governments and/or social partners from 20 countries<sup>1</sup> regarding the effects of the COVID-19 crisis on collective bargaining and, conversely, on the role of collective bargaining in tackling the crisis.

In several individual comments, the Committee was able to welcome situations where collective bargaining and industrial relations were used proactively to provide responses to the COVID-19 crisis<sup>2</sup> or where initiatives were taken to provide concrete responses to the difficulties encountered in holding negotiations in a context of social distancing,<sup>3</sup> while also facilitating the swift conclusion of agreements to tackle the crisis.<sup>4</sup> At the same time, the Committee was also informed of situations where the adoption of unilateral emergency measures had led to the suspension or temporary setting aside of existing collective agreements.<sup>5</sup> Finally, the Committee also took note of observations from trade unions pointing out how the lack of robust collective bargaining mechanisms made it difficult to provide balanced responses to the social and economic effects of the pandemic.<sup>6</sup> In the light of all these considerations, the Committee recalled a number of principles from relevant ILO instruments that should be taken into account to ensure that, notwithstanding the need to adopt certain emergency interim measures, responses to the crisis are both respectful of the right to collective bargaining and take full advantage of this mechanism for the recovery phase. Below are the main elements highlighted by the CEACR.

**Extracts from the 2020 CEACR General Report**

“[T]he Committee recalls its longstanding statement according to which crisis situations ‘cannot be used to justify restrictions on the civil liberties that are essential to the proper exercise of trade union rights, except in circumstances of extreme gravity and on condition that any measures affecting [their] application are limited in scope and duration to what is strictly necessary to deal with the situation in question’. The Committee has consistently recalled, in the context of an economic crisis, the importance, as also highlighted by the Committee on Freedom of Association, of maintaining permanent and intensive dialogue with the most representative workers’ and employers’ organizations in particular in the process of adopting legislation, which may have an effect on workers’ rights, including those intended to alleviate a serious crisis situation.

[...]

[T]he Committee observes that in the context of the pandemic, physical distancing measures and restrictions on freedom of assembly have affected, directly or indirectly, the realization of the right to organize and to collective bargaining. [...] In this regard, the Committee notes the proactive measures taken in some countries to facilitate the continued exercise of collective rights in the context of the constraints imposed by the pandemic, including: the extension of the mandates of trade union representatives; the adjustment of collective bargaining deadlines; the increased use of videoconferencing to ensure the continuity of the activity of social dialogue and collective bargaining bodies; and the adaptation of the facilities granted to unions in their dealings with teleworkers.

[...]

The Committee notes that in some countries, exceptional measures have led to temporary restrictions including the setting aside of collective bargaining mechanisms and the resulting agreements. The Committee considers that these exceptional measures are only admissible in the event of an acute crisis and that, by their nature, they must be limited in time, strictly adapted and proportionate to the objective constraints they address, include guarantees for the workers most affected and be consulted with the most representative organizations of employers and workers. At the same time, the Committee notes that in several countries collective bargaining mechanisms have played an important role in identifying responses to the crisis, for example through the signing of agreements defining the modalities of temporary reduction of working time and the preservation of workers’ incomes.

[...]

**Box 5.1 (cont'd)**

In light of these developments and in line with the guidance provided by the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), the Committee underlines the importance of trade union and collective bargaining rights in providing fair and robust solutions to the current health, economic and social crisis and in ensuring, in this context, respect for all rights guaranteed by ILO standards.” (ILO 2021I, paras 52, 71, 72, 75)

<sup>1</sup> Argentina, Australia, Bangladesh, Bosnia and Herzegovina, Brazil, Canada, Chile, Colombia, Croatia, Dominican Republic, Ecuador, France, Guatemala, Maldives, Mauritius, New Zealand, Pakistan, Sri Lanka, Viet Nam, Zimbabwe.

<sup>2</sup> See, for instance, CEACR observation concerning the application of Convention No. 154 by Argentina (2021) and CEACR observation on the application of Convention No. 98 by Australia (2021).

<sup>3</sup> See CEACR direct request concerning the application of Convention No. 98 by Bosnia and Herzegovina (2021) and CEACR observation on the application of Convention No. 98 by Chile (2021).

<sup>4</sup> See CEACR direct request on the application Convention No. 98 by France (adoption 2021, publication 2022).

<sup>5</sup> See CEACR observation on the application of Convention No. 98 by Brazil (2021) and CEACR observation on the application of Convention No. 98 by Canada (2021).

<sup>6</sup> See, for instance, CEACR observation on the application of Convention No. 98 by the Maldives (2022).

**Source:** ILO.

**Throughout 2020 and 2021, wherever collective bargaining was a well-established practice, parties adapted processes and procedures to respond to the highly uncertain context.**

However, there was significant variation across countries and sectors: some parties reported that the pandemic had had no impact on collective bargaining, while others referred to shorter or longer negotiations, and to changes in the application of collective agreements. In many countries, peak-level social dialogue, both tripartite and bipartite, played an important role in shaping and tailoring the unprecedented state response to the urgent challenges faced by employers and workers (ILO 2021g).

### Adjustments to the renewal and application of agreements

Confinement measures made it difficult for collective bargaining and renewals that had been scheduled for 2020 to proceed. In many countries, sectors and enterprises, **parties postponed the renewal of agreements**, especially where these had been scheduled for the March–September 2020 period, a period of considerable uncertainty. Comparative evidence suggests that such postponements were frequently accompanied by agreement to **prolong the applicability of existing agreements**. For example, in Sweden, the new triennial bargaining round had been due to begin in May 2020 and the parties prolonged

their agreements until October 2020, when bargaining could resume. Similarly, in Norway, the social partners, in consultation with the national arbitrator and the Government, agreed to postpone the bargaining rounds until the autumn of 2020, extending the validity of previously agreed terms (Allinger and Adam 2021). In Colombia, most parties agreed to prolong existing enterprise agreements. In Serbia, where certain collective agreements (covering staff at primary and secondary schools and university halls of residence) had been set to expire, the parties agreed to prolong them for a further year (see Appendix IV).

In some countries where agreements had expired without renewal, **ultra-activity provisions in law and in collective agreements provided regulatory certainty** (in Spain and Slovakia, for example). In Portugal, Act No. 11/2021 of 9 March 2021 prevented the expiry of collective agreements when provoked by only one of the parties by exceptionally suspending, for 24 months, the time limits applicable to the “survival period” of collective agreements following their termination.<sup>3</sup> Revocation by mutual consent was still possible. In New Zealand, emergency legislation modified the 12-month period during which expired collective agreements remain in force to exclude any period covered by the emergency epidemic notice, thereby extending their after-effects period.<sup>4</sup> In Greece, reforms during the Great Recession of the late 2000s had reduced

<sup>3</sup> Under article 501 of the Labour Code, approved by Act No. 7/2009 of 12 February 2009, when one party provokes the denunciation of an agreement (*denúncia*), a period of after-effects begins (*sobreavigência*) during which the agreement continues to apply for 12 months, allowing both parties to negotiate a new agreement.

<sup>4</sup> New Zealand, *Epidemic Preparedness (Employment Relations Act 2000 – Collective Bargaining) Immediate Modification Order 2020* (LI 2020/61).



► 2 February 2022. Rudi Delarue, Chair of the National Labour Council (CNT-NAR Conseil National du Travail – Nationale Arbeidsraad) facilitating online negotiations between the employers' organizations and trade unions on updating the national collective agreement on telework.

the after-effects period to three months (applicable in respect of certain clauses). The freeze on negotiation procedures as a result of lockdowns raised concerns about the potential negative impact of the expiry of agreements on wages and working conditions (Kousta 2020).

### Adjustments to procedures for collective bargaining

Where collective bargaining did go ahead, there were **adaptations in processes and procedures**. Many bargaining parties switched to **online negotiations** – for example, in Belgium, Brazil, Bulgaria, Colombia, Costa Rica, Georgia, India, Italy, the Netherlands, the Philippines, Sri Lanka (see box 5.2) and Trinidad and Tobago. In Belgium, 18 interprofessional collective agreements were concluded in 2021 within the framework of the National Labour Council: many of these were negotiated and concluded online. Enterprise agreements in Canada and the United Kingdom and a sectoral agreement in Argentina specifically referred to their being concluded and ratified by means of electronic signature. In Brazil, important agreements in the oil and metal sectors were

approved through virtual assemblies. In 2020, some 150,000 workers in the banking sector in Brazil took part in virtual assemblies around the country to approve a “COVID-19 collective convention”, far more than would have been the case under normal circumstances (see Appendix IV).

In some countries, **procedural regulations were adapted** to facilitate negotiations in the new context. For example, in France, the legal deadlines for negotiating collective agreements were reduced to ensure that enterprises could respond to the COVID-19 crisis.<sup>5</sup> The Labour Ministry also published a circular to clarify procedures for the use of videoconferencing, audio conferencing and electronic signatures.<sup>6</sup> In New Zealand, emergency legislation modified procedural regulations for collective bargaining under the Employment Relations Act 2000. In particular, time frames for the initiation of bargaining were temporarily extended to take account of the challenges posed by public health restrictions. The emergency legislation also authorized trade unions to notify the other party (or parties) of new procedures for ratification of the collective agreement (for example, online balloting, videoconferencing or teleconferencing).<sup>7</sup>

5 France, [Ordinance No. 2020-306](#) of 25 March 2020 (subsequently amended several times).

6 France, Ministry of Labour, Employment and Economic Inclusion, [Foire aux questions: Négociation collective](#).

7 New Zealand, [Epidemic Preparedness \(Employment Relations Act 2000 – Collective Bargaining\) Immediate Modification Order 2020 \(LI 2020/61\)](#). The order stipulated that those temporary changes were to be revoked three months after the Epidemic Preparedness (COVID-19) Notice 2020 expired or was revoked.

### ► Box 5.2 Resilient and responsive wage bargaining in Sri Lanka during the COVID-19 pandemic

Members of the Employers' Federation of Ceylon and trade unions signed many collective agreements between March 2020 and March 2021. Their role in coordinated bargaining has been a key source of resilience in Sri Lanka during the pandemic. Negotiations were carried out in online conference rooms and signed digitally. Although these agreements were not gazetted by the Commissioner General of Labour, they attest to a high degree of procedural responsiveness in collective bargaining by the employers' organization, employers and trade unions. In the event of a breach of terms by either party, the agreements are not enforceable by the Commissioner General of Labour. Nonetheless, the parties consider the terms to be binding.

Of the 24 collective agreements analysed, 20 contained salary increments. A considerable share of the enterprise agreements included basic wage increases, others moderated wages in exchange for improved benefits such as healthcare, and additional days of sick leave and compassionate leave. A number of agreements referred to flexible work organization and productivity incentives. Unions reported that in instances where the COVID-19 pandemic threatened business continuity, they accepted wage moderation or temporary suspensions in exchange for longer-term employment security (for example, in tourism). Employers that had been able to continue economic activity and agreed to increases (for example, in the banking and manufacturing sectors) stated that they did so to ensure industrial peace (avoiding ad hoc disruptions and trade union action), stability in labour costs (cushioning enterprises from the effects of increases by statute), and to maintain commitment and good working practices. Trade unions took joint responsibility for raising awareness of the content of the collective agreements, thereby strengthening compliance by employers.

In other instances, shorter-term memoranda of understanding were concluded to prolong agreements due to expire, until conditions had improved sufficiently for it to be possible to renew the full agreement.

Source: ILO, see Appendix IV.

## Responsiveness of agreements

In some cases, **parties negotiated extraordinary agreements outside agreed or mandated periods** until full renewals of regular agreements could be negotiated. In some sectors in Canada, such as care services, parties negotiated "roll-over" agreements that prolonged agreements about to expire by one year until meaningful negotiations could take place on their renewal.<sup>8</sup> In South Africa, negotiations at the Metal and Engineering Industries Bargaining Council had been due to start when the first lockdown took effect on 26 March 2020. Through virtual negotiations, the parties agreed on a one-year "COVID-19 standstill agreement", which prolonged the existing agreement on the basis of no increase in costs. In 2021, following a strike, the parties reached a three-year agreement

stipulating an above-inflation wage increase. As non-compliance with collective agreements had been a problem in the past, the new agreement included procedural innovations to strengthen compliance by enterprises.<sup>9</sup> In Uruguay, many agreements concluded in sectoral wage councils expired in 2020. Collective bargaining was able to proceed as normal in the construction, healthcare and transport sectors, and agreements were reached for the usual three-year duration. However, the other 15 sectoral wage councils adopted bridging agreements with a duration of one year.

In multi-employer bargaining systems in Europe, **adaptability provisions, including derogation clauses and hardship clauses, were invoked** in a number of instances to ensure the continuity of services in some sectors (such as healthcare) and facilitate adjustment in others. In Denmark,

<sup>8</sup> Interview with a representative of a Canadian trade union, 30 August 2021.

<sup>9</sup> Enterprises can apply for exemption to the Bargaining Council from the full application of the wage provisions in the collective agreement. This enables them to phase in prescribed wage rates starting at a rate of 60 per cent (or higher). This exemption is subject to the condition that the employer nevertheless implements the negotiated monetary increase (for example, 100 rand per month) on the wage rate currently paid to workers (even though this is below the prescribed rate in the collective agreement). The phase-in provision is for the duration of the agreement (2021–24) and is intended to facilitate a progressive and pragmatic approach to strengthening compliance in the industry (see Appendix IV).

the social partners in the private industrial sector signed a sectoral agreement recognizing COVID-19-related disruptions to business activities as force majeure under the long-standing provision in the collective agreement applying to blue-collar workers.<sup>10</sup> The agreement allowed for the temporary suspension of employment contracts so that workers could draw unemployment benefits, in exchange for a commitment to reinstate workers once economic activity had recovered.<sup>11</sup> In France, some branch agreements introduced exceptional derogations to support business continuity. For example, the national collective agreement of the furniture industry in 2020 included a derogation clause whereby enterprises facing cash flow difficulties could reduce, defer or stagger their contributions to the life insurance fund (France, Ministry of Labour, Employment and Economic Inclusion 2021, 93).<sup>12</sup>

In Italy, legislation provides for “proximity agreements” to be concluded at the company and territorial levels, enabling derogations from sectoral agreements and, to a certain extent, from legislation.<sup>13</sup> As of March 2021, 792 such agreements had been formally submitted. The largest number were in the services sector (64 per cent), followed by industry (35 per cent) and agriculture (1 per cent) (Italy, Ministry of Labour and Social Policy 2021, 10). In Norway, parties in healthcare and the care sector negotiated derogations from higher-level agreements on working time to enable longer working hours at the height of the pandemic.<sup>14</sup> In Spain, in 2020, around

560 “non-application” or hardship agreements were negotiated to allow for deviations from clauses on pay and working time in higher-level agreements. These were time-bound and affected some 20,300 workers (Spain, Economic and Social Council 2021, 453–455). However, the number of “non-application” agreements was only half of the average number of non-applications for the previous three years, reflecting the declining use of such provisions since 2014.<sup>15</sup> Most of the derogations negotiated in 2020 concerned small enterprises (407), followed by medium-sized enterprises (101) and large enterprises (42). The majority were in the services sector (348). Clauses in collective agreements facilitating this type of negotiated and time-bound adaptability of agreements according to predetermined criteria (for example, financial difficulties) were also observed in sectoral collective agreements in Argentina, Croatia and Sierra Leone and in territorial agreements in Brazil.<sup>16</sup>

A survey of employer and business membership organizations (EBMOs) in 2021 (see Appendix III) and trade unions (ILO 2021d) investigated the perceptions of the social partners regarding the role of collective bargaining in the response to the COVID-19 crisis (see box 5.3). While EBMOs expressed mixed views, trade unions tended to agree that collective bargaining had been a flexible and responsive tool for dealing with the challenges that they and their members had faced.

### ► Box 5.3 Perceptions of employers’ organizations and trade unions with regard to collective bargaining during the COVID-19 crisis

#### Employer and business membership organizations report mixed experiences with collective bargaining during the pandemic

The survey of EBMOs conducted by the ILO in April and May 2021 investigated the perceptions of peak-level cross-industry EBMOs regarding the role of collective bargaining in managing the socio-economic consequences of the COVID-19 crisis (see Appendix III). Around 41 per cent of respondents assessed the overall impact of collective bargaining as positive in terms of economic resilience (for example, by sustaining competitiveness and productivity, and facilitating employment retention), while 37 per cent assessed it as negative and 21 per cent reported that

10 Denmark, “Collective agreement concerning force majeure and furlough under the Industry Agreement as a result of the COVID-19 outbreak”, 17 March 2020 (available in Danish only).

11 The agreement stipulated that workers not re-hired after six months were to be considered as having had their employment contract terminated, which would entitle them to receive severance pay.

12 The original agreement: “Convention collective nationale de la fabrication de l’ameublement du 14 janvier 1986. Etendue par arrêté du 28 mai 1986 (JORF du 22 juin 1986). - Textes Attachés - Avenant n° 9 du 26 mai 2020 à l’accord du 26 avril 2005 relatif au régime de prévoyance”.

13 Pursuant to article 8 of Decree-Law No. 138/2011, converted into Act No. 148/2011.

14 Sectoral agreements in the healthcare sector from 2020 (CBA-Norway#45, CBA-Norway#46, CBA-Norway#47) and sectoral agreement in the public administration sector from 2020 (CBA-Norway#48).

15 For data from previous years, see CCOO (2019, 33–38).

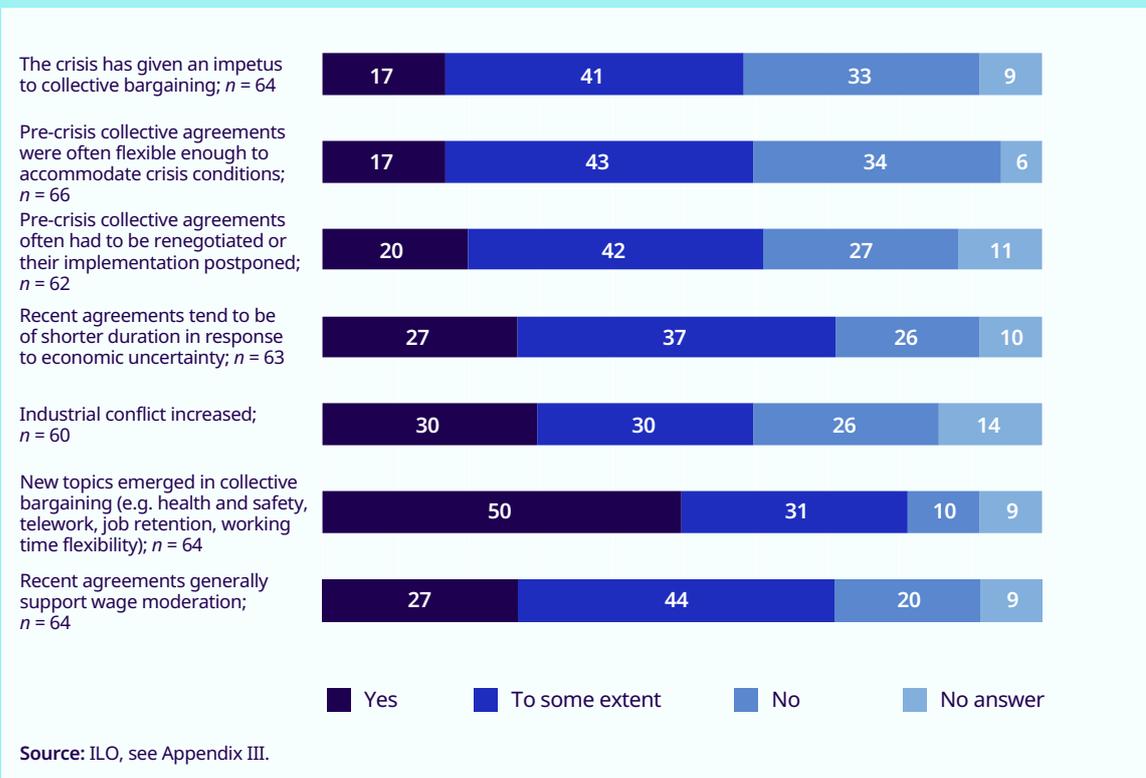
16 CBA-Argentina#262; CBA-Brazil#274; CBA-Croatia#11 and CBA-Sierra Leone#362.

## Box 5.3 (cont'd)

it had not had any impact. There were differences between the regions, with respondents from Africa having the most positive perceptions and those from Latin America and Asia the most critical.

When assessing the impact of the COVID-19 crisis on collective bargaining, around 17 per cent of respondents agreed that the crisis had given new impetus to collective bargaining; 41 per cent said that it had done so "to some extent". Similarly, around 17 per cent of respondents agreed that pre-crisis agreements were flexible enough to accommodate the effects of the crisis; 43 per cent said that this was so "to some extent". Around 27 per cent of respondents indicated that those recent agreements had tended to be of shorter duration owing to economic uncertainty. Similarly, 27 per cent reported that recent agreements had generally supported wage moderation; 44 per cent said that this was so "to some extent". Several respondents noted that the crisis had led to the postponement of negotiations that had been due to begin or were ongoing. Some mentioned that communication between the parties had been negatively affected. Indeed, a majority of respondents indicated that industrial conflict had increased, at least "to some extent" (see figure 5.2).

► **Figure 5.2 EBMOs' perceptions of the impact of the COVID-19 crisis on collective bargaining (percentage)**



### Trade unions and workers' organizations report that collective bargaining proved to be adaptable and responsive during the pandemic

A survey of more than 200 trade unions, carried out on behalf of the ILO between March and May 2021 (ILO 2021d) highlighted their view that collective bargaining was responsive in addressing the immediate challenges faced during the pandemic. More than one third of respondents (36 per cent) said that the pandemic had prompted more formal negotiations, while just under one third (31 per cent) reported a decline in formal collective bargaining. Half of the respondents noted that the pandemic had led to an increase in informal negotiations (outside of formal procedures for collective bargaining), which had nevertheless resulted in the conclusion of collective agreements (see figure 5.3).

As for the renewal of existing agreements, some trade unions reported that negotiations had proceeded as normal, simply shifting negotiations to online formats. Others referred to the postponement of negotiations, the "roll-over" of existing agreements for a further year and other temporary arrangements to deal with the exigencies of the situation. Some reported a more tense industrial relations climate, which had resulted in drawn-out negotiations. Perceptions of the effectiveness of online

## Box 5.3 (cont'd)

negotiations varied. Half of the respondents were of the view that remote online negotiations were less effective, pointing out that it was harder to “read the room” and interpret the body language of the other participants. In addition, it was difficult to hold informal, “off-the-record” side meetings, which were often so critical to the success of negotiations. Others missed the ritual of traditional negotiations but found the online format to be more focused and the parties better prepared. Some reported significant advantages in terms of cost savings, reduction in travel time, and the ability to engage with members who would not typically attend face-to-face meetings. However, the effects on trust-building were difficult to quantify.

► **Figure 5.3 Trade unions’ perceptions of the impact of the COVID-19 crisis on collective bargaining practices (percentage)**



#### Both EBMOs and trade unions reported a change in bargaining priorities

Half of the EBMO respondents noted that new topics had emerged, such as health and safety, telework, employment retention and working-time flexibility. A further 31 per cent considered that this had been the case only to some extent (see figure 5.2).

Trade unions, for their part, reported that the pandemic had had a significant impact on bargaining priorities. Occupational safety and health had moved to the top of the agenda. A few items appeared to receive less attention, notably gender equality (with the exception of adapting working-time arrangements to accommodate care responsibilities) (see figure 5.4).

► **Figure 5.4 Changing priorities on the collective bargaining agenda (2020–21)**



# 5.2

## Protecting front-line workers, sustaining key services

Following the adoption of public health measures in early 2020 and after later waves of infection, millions of workers and employers in the public and private sectors were called upon to ensure the continuity of services deemed critical to the health, safety and security of the public. Many worked in occupations where social contacts and direct exposure to COVID-19 placed them at a high risk of contracting the virus (see box 5.4). Nurses and other healthcare workers reported higher rates of COVID-19 infection compared with the working-age population as a whole (Chou et al. 2020; Gómez-Ochoa et al. 2021; Stringhini et al. 2021). The rapid transmission of COVID-19 in residential facilities for elderly people also resulted in high infection rates among social care workers (ILO 2020k; Pelling 2021).

### ► Box 5.4 Who are the front-line workers?

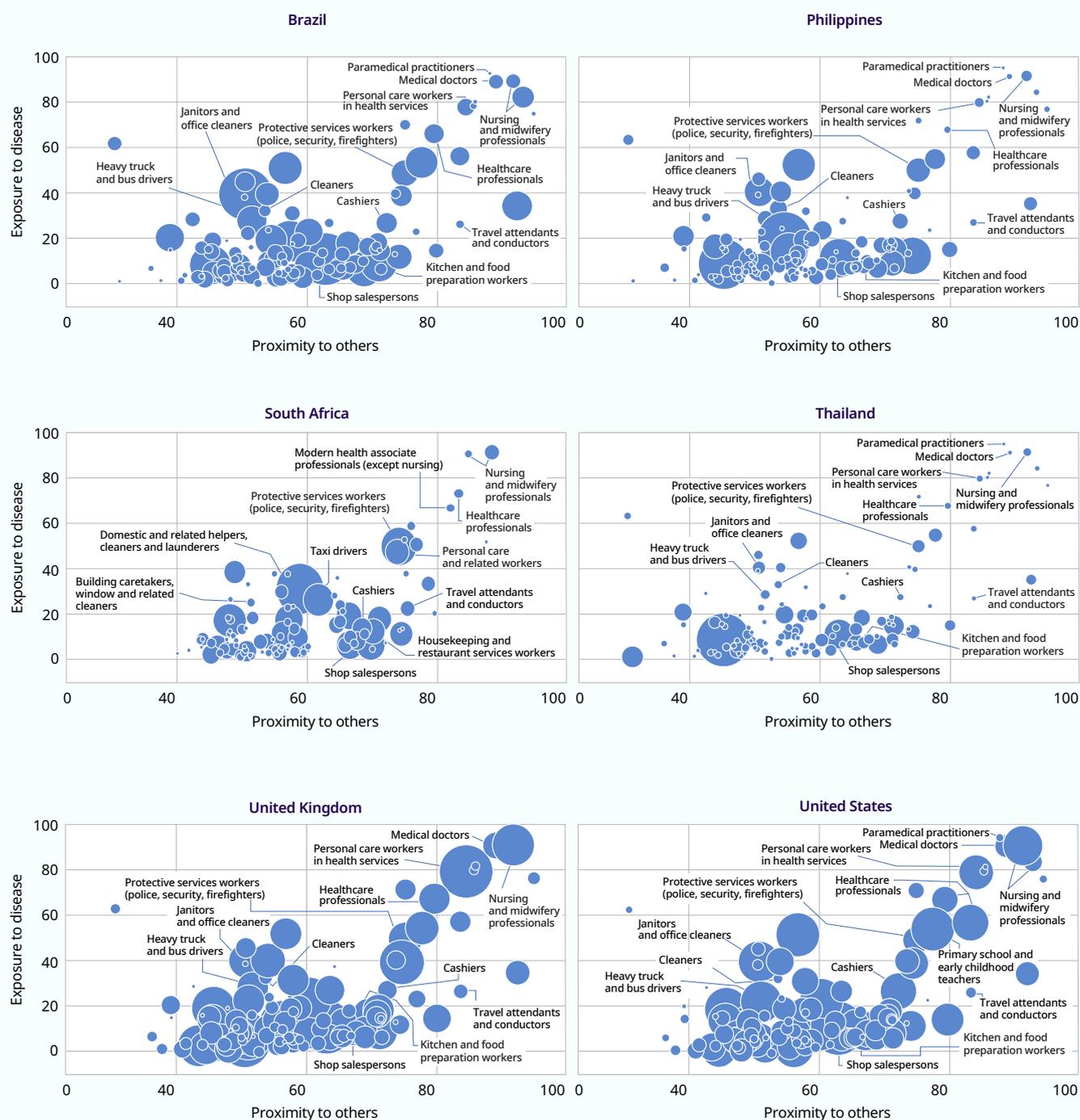
Many workers are in occupations that have required them to work on the front lines of the battle against the pandemic, performing work that has directly exposed them to the virus, and that has involved working in close proximity with other people placing them at considerable risk of exposure. These are the front-line workers. Brudney (2020) identifies six broad categories: healthcare workers; retail workers (grocery, convenience and drug stores); public transit workers; janitors and building cleaners; workers in postal services, warehouses and truck delivery; and child-care and social care workers.

Data analysed by the ILO indicate that the occupations that are the most exposed to infection or disease and that involve working in close proximity to other people include, but are not limited to, health professionals, such as nurses and medical doctors; social care workers; service and sales workers, such as cashiers and other food retail and dispensary workers; protective services, such as police officers, firefighters and security guards; bus drivers and conductors; and janitors and cleaners. Women make up a disproportionate share of front-line workers, accounting for more than two thirds of all workers in healthcare, 88 per cent of social care workers and 74 per cent of workers in the cleaning sector.<sup>1</sup>

<sup>1</sup> ILOSTAT, "Employment by sex and occupation (ISCO-08)", weighted average for 121 countries using the latest year available.

## Box 5.4 (cont'd)

► **Figure 5.5 Occupations with the highest risk of exposure to disease and working in close proximity to others, selected countries**



**Note:** The O\*NET database contains both job- and worker-oriented data (for example, how work is performed in terms of tasks and work activities) for the United States. Approximations of the work context (i.e. physical work conditions including exposure to disease and proximity to others) typical of certain occupations were applied to occupational data for Brazil, the Philippines, South Africa, Thailand, the United Kingdom and the United States.

**Source:** ILOSTAT and O\*NET.

When considering the role that collective bargaining has played in relation to front-line workers during the pandemic, it is important to note the significant institutional differences that exist across sectors. Collective bargaining coverage tends to be high in the public sector (healthcare and social care) and moderate in the transport sector. It is typically low in food retail and in cleaning services. In general, the predominant level of collective bargaining reflects the prevailing practices in a given country. However, where healthcare and social care are integrated into the public sector, collective bargaining is likely to be centralized, even in countries where enterprise-level bargaining prevails. In line with existing national patterns, the collectively negotiated responses analysed for this report were

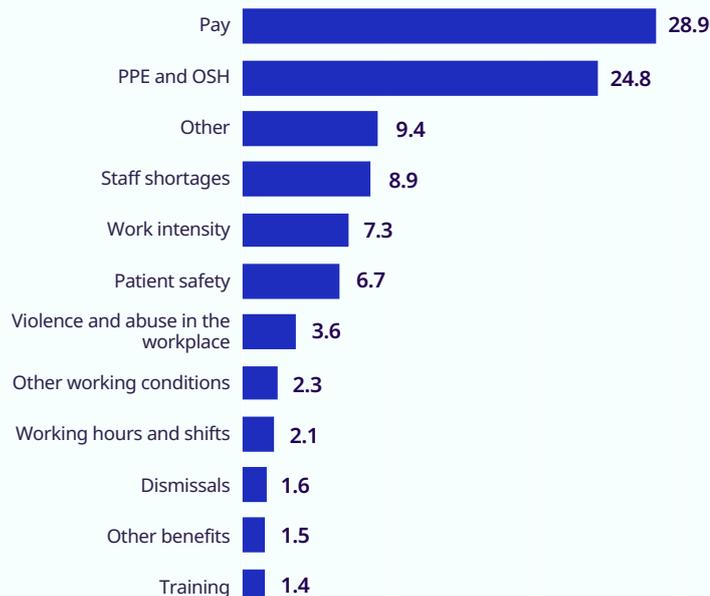
more coordinated in sectors such as healthcare and public social care services, and less coordinated in sectors such as food retail and cleaning services.

**Disruptions and labour protests threatened the continuity of services in many parts of the world. Dissatisfaction with wages, insufficient PPE and work intensity were frequent triggers of work stoppages and other forms of labour unrest among front-line workers throughout 2020 and 2021** (see box 5.5). The collective action repertoire was not limited to strikes but also included other modes of collective action, such as public demonstrations, campaigns and symbolic action (Vandaele 2021; IOE 2021b). This had significant implications for the continuity of services.

► **Box 5.5 Triggers of labour instability in the healthcare and retail sectors during the COVID-19 pandemic**

According to the Leeds Index of Labour Protest, among the 90 countries analysed there were 3,873 labour protests observed in the healthcare sector and 466 labour protests in the retail sector between March 2020 and May 2021 (Trappmann et al., forthcoming). These protests were frequently over more than one issue. In healthcare, the most common trigger of labour unrest concerned pay (28.9 per cent), including demands for higher pay, and dissatisfaction over declining wages and the non-payment of wages and bonuses. A second major trigger was the inadequate PPE and other safety and health issues (24.8 per cent), followed by staff shortages (8.9 per cent), work intensity (7.3 per cent), and concerns about patient safety (6.7 per cent). The category “other reasons” (9.4 per cent) included the wish to see a general improvement in working conditions, demands for life insurance and for priority access to treatments and vaccinations (see figure 5.6).

► **Figure 5.6 Triggers of collective action in the healthcare sector around the world, March 2020–May 2021 (percentage)**



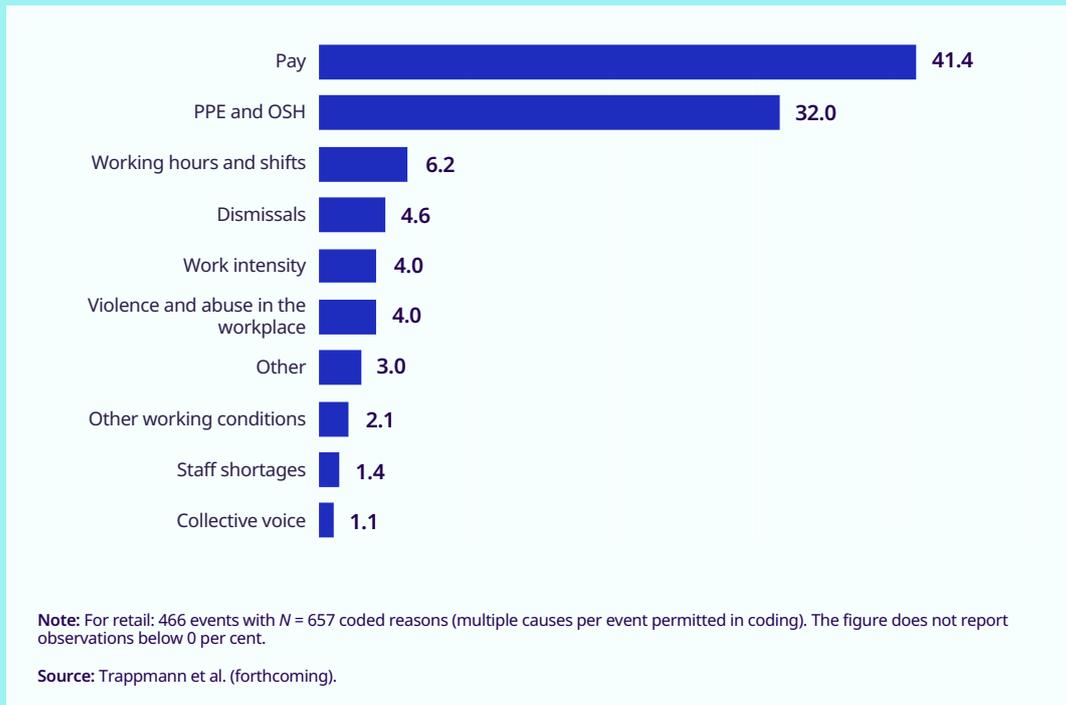
**Note:** For healthcare: 3,873 events with  $N = 6,525$  coded reasons (multiple causes per event permitted in coding). The figure does not report observations below 0 per cent.

**Source:** Trappmann et al. (forthcoming).

Box 5.5 (cont'd)

In the retail sector, among the 90 countries examined, dissatisfaction with pay was again the most frequent trigger of labour unrest (41.4 per cent), followed by issues related to PPE and safety and health (32 per cent), working hours (6.2 per cent) and work intensity (4 per cent) (see figure 5.7). Complaints about violence and abuse in the workplace also sparked collective action in both healthcare and retail.

► Figure 5.7 Triggers of collective action in the retail sector around the world, March 2020–May 2021 (percentage)



Detailed case studies on retail, healthcare and social care services (see Appendix IV) and a thematic analysis of data for the key sectors in which front-line workers were engaged indicate that, throughout 2020 and 2021, **collectively negotiated responses were focused on three themes:**

- (a) the protection of health and safety and, related to this, healthcare and paid sick leave;**
- (b) work organization, including the negotiation of working time and rules concerning job allocation to facilitate the continuity of services; and**
- (c) the valuing of work performed on the front lines** (see figure 5.8 and table 5.2).

► Figure 5.8 Protecting front-line workers, sustaining key services: A thematic analysis of collectively negotiated responses, 2020–21



## Protecting front-line workers

Responses to the pandemic were at times tempered by resource constraints and the limited availability of adequate PPE during the early stages of the pandemic (ILO 2020h, 2020g, 2020i; McMahon et al. 2020; McGarry, Grabowski and Barnett 2020; Ranney, Griffeth and Jha 2020; Chersich et al. 2020). Given their direct exposure to COVID-19, access to PPE and the prevention and control of infection at the workplace was at the top of the bargaining agenda for front-line workers in many countries.

Agreements reviewed in healthcare, social care, education, food retail and transport included commitments to ensure the adequate provision of PPE and protocols for its correct use.<sup>17</sup> For example, in the Republic of Korea, following PPE shortages in the early months of 2020, an agreement was reached in the healthcare sector to pre-emptively stockpile such equipment for healthcare workers.<sup>18</sup> Agreements also included additional protective measures, such as the installation of appropriate physical barriers and work organization to protect at-risk workers. For example, in Norway, a sectoral agreement for public transport workers (2020) included provisions on the closure of front doors and cash-free payments to protect bus drivers.<sup>19</sup> Enterprise-level agreements in the retail sector in Chile and Hungary included the installation of physical barriers at cash registers.<sup>20</sup> In Austria, a sectoral agreement in the retail sector included a provision for at-risk workers, such as pregnant workers, to be reassigned to areas without client contact or be exempted from work on full pay.<sup>21</sup>

From early 2020 to mid-2021, issues regarding testing, self-isolation and vaccinations were

frequently part of the bargaining agenda. For example, a sectoral agreement for healthcare workers in Italy provided for regular testing of those exposed to the virus.<sup>22</sup> Some agreements included provisions requiring healthcare workers to share information on their COVID-19 status with their employer if requested.<sup>23</sup> Agreements were also reached that recognized periods of self-isolation as working time with the entitlement to full pay.<sup>24</sup> Others made special provision for “quarantine leave allowances” or “pandemic leave” on full pay for self-isolation periods.<sup>25</sup> An interprofessional agreement in Czechia for the public sector covering healthcare established vaccination-related sick leave for healthcare workers.<sup>26</sup> In Finland, the sectoral agreement for healthcare workers granted them the right to receive the vaccination during working hours.<sup>27</sup> As more infectious variants of COVID-19 emerged, vaccine and testing mandates were introduced in some countries in late 2021 and early 2022, triggering labour protests and instability.<sup>28</sup>

With increases in infection rates among front-line workers in the course of the pandemic, healthcare benefits and paid sick leave, along with the recognition of COVID-19 as an occupational disease, became a pressing concern. In Kenya in the healthcare sector, several agreements signed at the county level in 2020 made provision for nurses to be included in national health and injury insurance.<sup>29</sup> In the Philippines, an enterprise agreement in the healthcare sector provided free hospital care to workers who had contracted COVID-19 and free accommodation on the premises to those needing to self-isolate (see box 5.10).<sup>30</sup> In Sri Lanka, an enterprise agreement in the healthcare sector secured free hospitalization for workers with COVID-19, supported by up to two months

17 For example, at the interprofessional level (CBA-Austria#123 and CBA-Austria#355), at the territorial level (CBA-Colombia#393), at the sectoral level (healthcare: collective agreements in CBA-Italy#173, Kenya (see Appendix IV), CBA-Republic of Korea#481; public and provincial administration: CBA-Colombia#169; education: collective agreements in Costa Rica (see Appendix IV)); and at the enterprise level (healthcare: CBA-USA#128; retail: CBA-Australia#205; transport: CBA-Spain#428; education: CBA-Chile#450).

18 CBA-Republic of Korea#107.

19 CBA-Norway#356.

20 See Appendix IV.

21 CBA-Austria#4.

22 CBA-Italy#173.

23 For example, CBA-New Zealand#471, CBA-USA#128, CBA-USA#129.

24 For example, at the sectoral level (healthcare: CBA-Austria#5) and at the enterprise level (retail: CBA-Chile#225).

25 For example, at the sectoral level (healthcare: CBA-Republic of Korea#75, CBA-Republic of Korea#107), and at the enterprise level (healthcare: CBA-Australia#238, CBA-USA#128, CBA-USA#129).

26 CBA-Czechia#384.

27 CBA-Finland#204.

28 Trade unions in Europe have expressed concerns about these mandates, supporting voluntary vaccination and advocacy campaigns (ETUC 2021b). In October 2021, the IOE held a conference entitled “Covid-19: What Employers Need to Know on Vaccinations and Prevention”.

29 Appendix IV.

30 Appendix IV.

of full pay.<sup>31</sup> In Australia and the United States, enterprise agreements in retail included new sick-leave entitlements in view of COVID-19-related circumstances.<sup>32</sup>

Some collective agreements in the health-care sector also addressed psychosocial support by including clauses on the monitoring of psycho-social risks at the workplace, access to psychological counselling, and the provision of treatment and support for mental health issues.<sup>33</sup>

The contractual status and training of workers considered essential yet employed in temporary arrangements came to the fore in a number of negotiations (see box 5.6 on Argentina). Some collective agreements included provisions that extended labour protections to workers in temporary and other work arrangements.

- ▶ In Spain, trade unions asked the Government to enforce a national collective agreement, originally signed in 2017 and renegotiated in 2021, that had established reductions in the rate of temporary employment in the public sector to ensure that healthcare workers were on permanent contracts.<sup>34</sup>
- ▶ In Georgia, in the transport sector, it was agreed in 2020 that microbus drivers, previously contracted under a service agreement, would be recruited as employees, which meant that they would be able to enjoy adequate health-care and OSH protections. The change affected around 3,000 workers in Tbilisi.<sup>35</sup>



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31 Appendix IV.

32 CBA-Australia#205; enterprise-level agreement in the United States (source: [Live Updates](#), last accessed on 20 December 2021).

33 For example, at the sectoral level (CBA-Finland#204, CBA-Italy#173, CBA-Republic of Korea#107, CBA-Republic of Korea#98).

34 Appendix IV and the new [agreement](#), dated 5 July 2021 (available in Spanish only).

35 Appendix IV.

### ► **Box 5.6 Negotiating to sustain key services and protect front-line workers in the public healthcare sector in Argentina**

In Argentina, the scope of the sectoral bargaining agenda for public healthcare in the province of Buenos Aires expanded throughout 2020 and 2021, as the parties recognized the need to maintain essential services and ensure workers' safety and protection. Collectively negotiated responses included the establishment of crisis committees in all hospitals and municipalities; the provision of sufficient PPE; adequate rest; and the introduction of leave for high-risk groups. Having previously agreed on wage adjustments, in the October 2020 bargaining round, the parties focused on expanding leave entitlements to take into account workers' physical and mental exhaustion after months of working on the front lines of the battle against the pandemic. In a sectoral agreement, the parties agreed to extraordinary sick-leave entitlements for healthcare workers and the right to postpone the application of 2020 annual leave entitlements, since many workers had not been able to take paid leave because of the critical nature of the services they were delivering. The long-standing issue of converting temporary contracts was also raised during the negotiations.

The COVID-19 pandemic shone a spotlight on the contractual status of medical residents (including *becarios*<sup>1</sup>), healthcare professionals seeking hospital careers (such as paramedics, nurses, medical technicians and X-ray technicians) and other temporary healthcare workers. In July 2020, the contracts of a total of 1,909 medical residents were made permanent, providing them with employment stability and access to healthcare and other benefits. Another measure adopted was the placement of 8,708 healthcare professionals who had been seeking hospital careers as permanent employees.

Furthermore, in late September 2020, the Provincial Government of Buenos Aires offered all medical residents who had completed their training the opportunity to join the permanent staff of public hospitals in the province. This offer was taken up by 72 per cent of the eligible cohort and, as a result, 1,137 resident doctors were employed on a permanent basis as from 1 October 2020.

<sup>1</sup> Medical graduates holding a scholarship (*becarios*) undergo comprehensive postgraduate training as part of a residency programme at hospitals.

**Source:** ILO, see Appendix IV.

Other workplace safety issues emerged: in particular, it was reported that front-line workers were facing increased levels of violence and harassment (ILO 2020; ICRC 2020; BRC 2021; and figures 5.6 and 5.7 above). In a collective agreement in New Zealand, parties recognize harassment in the workplace to be unacceptable and agree to implement an anti-harassment policy.<sup>36</sup> A few other agreements also include commitments to prevent harassment at the workplace.<sup>37</sup>

## Securing the continuity of key services

As hospital capacities became overstretched and workers started to contract the virus, work intensity increased. Many parties came to the bargaining table in 2020 to tackle staff shortages

and to agree to changes in work organization, working time and rules concerning job allocation. Collective agreements in the healthcare sector included commitments to raise staffing levels and to redeploy staff in response to the increased burden shouldered by health and social care providers (for example, in Ireland – see box 5.7).<sup>38</sup> In some countries, sectoral agreements were also reached that extended working time (and overtime) and changed shift rotations so as to meet the demands being placed on health and social care services, while at the same time limiting the number of staff exposed to the virus.<sup>39</sup>

Long-term care facilities were often faced with insufficient resources to address the significant challenges they faced. In Sweden, the Government allocated 2.2 billion Swedish krona during 2020 and 2021 to its newly launched Elderly Care

<sup>36</sup> CBA-New Zealand#471.

<sup>37</sup> For example, at the territorial level (public administration and defence: CBA-Australia#237), at the sectoral level (wholesale and retail: CBA-Denmark#404; CBA-Finland#109) and at the enterprise level (healthcare: CBA-Republic of Korea#110).

<sup>38</sup> For example, at the sectoral level (CBA-Italy#173) and at the enterprise level (CBA-USA#128, CBA-USA#129, CBA-USA#132).

<sup>39</sup> For example, at the sectoral level (CBA-Norway#45, CBA-Norway#47). In Israel, an agreement in the healthcare sector introduced 12-hour "corona shifts" (CBA-Israel#130).

Promotion initiative. The investment enabled the creation of an estimated 10,000 new positions in care for the elderly. Moreover, the initiative offered existing staff the opportunity to undergo training as a care assistant or nurse during paid working hours. This was supplemented by

collective agreement between the union and local governments, whereby any worker participating in the initiative in 2020 and 2021 would be offered permanent employment (Sweden, Ministry of Health and Social Affairs 2020).

#### ► **Box 5.7 Ireland: Redeployment agreements in health and social care**

In Ireland, healthcare workers are covered by the centralized collective bargaining agreement for the public sector. Private hospitals sign enterprise-level agreements that typically follow the agreement for the public sector. Social care is predominantly private (not for profit), with only 15 to 20 per cent provided by the public health system and an additional 20 to 25 per cent by the voluntary sector (religious institutions). Only the public sector workers are covered by a collective agreement.

At the beginning of the pandemic, there was an urgent need for staff to be redeployed to COVID-19 wards and to perform new tasks, such as testing and tracing. In addition, private nursing homes were facing severe staff shortages as a result of high infection and morbidity rates and staff absences due to COVID-19. Workers with children faced additional burdens owing to the closure of childcare institutions (schools and kindergartens).<sup>1</sup> The National Joint Council of Health Sector Trade Unions, a bargaining and consultative committee, met weekly during the pandemic to negotiate redeployment policies aimed at ensuring the resilience of health services.<sup>2</sup> The parties negotiated three redeployment agreements in the health and social care sectors: the first in March 2020, the second in April 2020 related to the redeployment of public healthcare staff to private nursing homes on a temporary basis, and the third in December 2020 updating the agreement from March. The parties agreed to the following safeguards within the redeployment agreements:

- redeployment was to be voluntary;
- staff would not be redeployed from busy departments;
- minimum staffing levels were specified in relation to redeployment to nursing homes;
- the requirement that redeployment should not exceed a distance of 45 km was relaxed (in practice most redeployment fell within the 45 km limit);
- when redeployed, sick or isolating, workers were to be paid the equivalent of their normal pay or the average pay over the previous six weeks, whichever was highest;
- sick leave due to COVID-19 was not to be counted against the existing provision (three months of sick leave over a four-year period); and
- workers were guaranteed that they would be able to return to their previous jobs.

When negotiating the revised agreement of December 2020, the parties sought to incorporate the lessons learned. They agreed that mass redeployment could only be triggered in the case of a national emergency such as COVID-19. Redeployment had required a commitment from both sides to communicate with staff and explain the process. Trade unions set up helplines for members to alert them to issues such as PPE shortages. Employers involved trade unions in the drafting of new job descriptions (for example, new roles in testing and tracing) and the design of measures to ensure an adequate supply of PPE.

<sup>1</sup> Trade unions demanded the reopening of schools for front-line workers who faced difficulties with childcare. As a compromise, bargaining parties concluded an agreement in which they agreed to reimburse childcare expenses (not part of the redeployment agreements).

<sup>2</sup> A separate agreement was reached on the working conditions of student nurses, who instead of being unpaid (placements are normally unpaid during the first three years of study) were to be paid for 12 weeks at the same rate as healthcare assistants.

**Source:** ILO, see Appendix IV.

The institutional capacity for coordination contributed to resilience, in the sense that it allowed for a systemic response to the increased demands placed by the pandemic on healthcare services. For example, in Norway, an agreement covering private nurses and paramedics (March–September 2020) increased the maximum amount of overtime allowed (from 10 to 25 hours in a 7-day period), temporarily deviating from statutory working-time standards.<sup>40</sup> A subsequent sectoral agreement in private kindergarten services (31 March–29 September 2020) allowed for the extension of opening hours and for night work in case it was necessary to provide an extended service for the children of employees in key services (for example, those working in hospitals and nursing homes).<sup>41</sup>

### Valuing work on the front lines

Public displays of appreciation for nurses, doctors and other healthcare workers were, in many instances, followed by government awards of special COVID-19 bonuses and/or structural increases in pay for health professionals in recognition of their service and the risk that they faced (for example, in Belgium, Portugal, Slovakia and the United Kingdom).<sup>42</sup> Against this backdrop, bargaining parties in some countries reached agreements that gave new value to work performed on the front lines. Throughout 2020 and 2021, collective agreements in healthcare, transport, food retail and care for the elderly included bonuses and wage increases to reward front-line workers.<sup>43</sup> In some countries, collective bargaining led to tangible wage increases for workers in the public sector (for example, in Argentina, Germany and Norway, but also in Slovakia, where pre-existing agreements delivered increases in 2020).<sup>44</sup> There were also instances where collective bargaining between trade unions and multinational enterprises in the food retail sector delivered structural

increases or bonuses for workers in exchange for greater flexibility in work organization for employers.<sup>45</sup>

In some countries, strained public finances resulted in below-inflation wage adjustments or freezes on wages. For example, in Croatia, parties in state administration (including the police) agreed to defer wage increases and to freeze wages.<sup>46</sup> In South Africa, the Government did not implement the wage increase agreed in the three-year collective agreement (2018–20) for the public sector covering healthcare workers, citing constraints on the budget that had been exacerbated by the pandemic. The union declared a dispute and the matter was finally settled in court; however, it placed considerable strain on labour relations.<sup>47</sup> An agreement was subsequently reached on the wage increase for 2022. In Kenya, the non-payment of wages and staff shortages led to a national strike of healthcare workers in December 2020. Following an agreement with doctors to return to work, nurses in Kiambu County reached an agreement that included back-pay of wages, the provision of PPE and defrayal of the medical costs for nurses who had fallen ill with COVID-19. The agreement was replicated in negotiations in other counties.<sup>48</sup> As the pressure on public finances increases across the world, so too will constraints on wage bargaining, which suggests that bargaining rounds in public services in the years to come will be difficult. This is particularly true of countries facing a debt crisis.

40 CBA-Norway#45, CBA-Norway#47.

41 CBA-Norway#49.

42 Appendix IV.

43 For example, bonuses were agreed at the sectoral level in healthcare (CBA-Argentina#249, CBA-Argentina#262 in private healthcare, CBA-Austria#5, CBA-Germany#32), in retail (CBA-Argentina#239, CBA-Argentina#258, CBA-Austria#6) and in transport (CBA-Netherlands#374, CBA-Zimbabwe#119); and at the enterprise level in the cleaning sector (CBA-Portugal#199) and in retail (United States, see: [Live Updates](#)). Structural increases were agreed at the sectoral level (health and social care: CBA-Denmark#407, CBA-Germany#32, CBA-Germany#114, Lithuania (source: [CBA in social services sector](#)), CBA-Netherlands#416, CBA-Uruguay#455, CBA-Zimbabwe#118, retail: CBA-Denmark#404, transport: CBA-Netherlands#374, CBA-Zimbabwe#119) and at the enterprise level (transport: CBA-Spain#428, healthcare: CBA-USA#133, CBA-Germany#352, retail: CBA-United Kingdom#327).

44 Appendix IV.

45 Enterprise agreements in food retail in Chile granted wage increases of between 3.5 and 8 per cent. In the United Kingdom, parties agreed to increase the base rate from £9.20 per hour to £10 per hour. In Hungary, retail workers were granted two bonus payments of 40,000 Hungarian forints (source: ILO, Appendix IV).

46 CBA-Croatia#10.

47 South Africa, Labour Appeal Court, *Public Servants Association and Others v. Minister of Public Service and Administration and Others*, [Judgment of 15 December 2020](#). The union has taken the matter to the Constitutional Court.

48 Appendix IV.

▶ Table 5.2 Negotiating on the front lines: Selected examples of negotiated responses

Selected examples of provisions in collective agreements	
<b>Protecting front-line workers</b>	<ul style="list-style-type: none"> <li>▶ Availability of appropriate PPE and its stockpiling (protective masks, disinfectants)</li> <li>▶ Workplace safety measures (installation of physical barriers, cash-free payments)</li> <li>▶ Protection of at-risk workers (pregnant workers, workers with disabilities, older workers)</li> <li>▶ Vaccination and testing at the employer's expense (healthcare)</li> <li>▶ Commitment to keep paid-leave (holiday) entitlements and standard sick-leave entitlements</li> <li>▶ Paid sick-leave provisions improving on the statutory provisions provided by the State; COVID-19 extraordinary leave (for self-isolation or owing to public health measures)</li> <li>▶ Payment of healthcare costs for front-line workers (health and social care)</li> <li>▶ Psychosocial support, including psychotherapy</li> <li>▶ Increased social protection (life insurance)</li> <li>▶ Commitment to convert temporary and fixed-term contracts into permanent contracts for inclusive labour protection (healthcare, social care and transport)</li> <li>▶ Protection against violence and harassment at the workplace</li> </ul>
<b>Securing the continuity of key services</b>	<ul style="list-style-type: none"> <li>▶ Changes to work organization and shifts in the healthcare sector ("corona shifts")</li> <li>▶ Overtime allowance for workers on corona shifts</li> <li>▶ Redeployment of workers in the healthcare sector to avoid staff shortages</li> <li>▶ Temporary extension of limits on working time and overtime (healthcare)</li> <li>▶ Right to sufficient rest (healthcare, transport)</li> <li>▶ Provision of childcare facilities for front-line workers on longer hours or shifts</li> <li>▶ Rapid roll-out of digital solutions to, inter alia:               <ul style="list-style-type: none"> <li>▶ enable health professionals to consult with patients on a virtual basis;</li> <li>▶ facilitate digital recruitment services to ensure continued recruitment to critical functions; and</li> <li>▶ deliver training and e-learning to maintain the delivery of essential services</li> </ul> </li> <li>▶ Guarantee to retain employment and not dismiss regular workers during the crisis (healthcare)</li> </ul>
<b>Valuing work on the front lines</b>	<ul style="list-style-type: none"> <li>▶ "Corona premium" for exceptional burden; risk allowance/bonus for work in hazardous environment</li> <li>▶ Structural wage increases</li> </ul>

# 5.3

## Ensuring safe and healthy workplaces

The pandemic and the public health measures adopted to contain it posed immediate challenges for work practices. **The protection of workers' health became a prerequisite for sustaining work, whether performed on site or remotely. As a result, OSH was at the top of the bargaining agenda as enterprises and trade unions (or representatives on works councils in some countries) came together to implement public health measures and tailor specific OSH measures to the sector or enterprise.**

The promotion of preventative safety and health measures at all levels was key. **At the national level, in addition to statutory measures, tripartite consultation on OSH played a critical role in shaping responses to COVID-19.** Health and safety protocols were negotiated, either in tripartite settings or through collective bargaining across a range of countries. Following a hierarchy of controls for minimizing the risk of workplace

contagion, these protocols included the substitution of on-site work with telework, where possible; engineering control and organizational measures to limit exposure to the virus; and the procurement, provision and use of PPE.<sup>49</sup> For example:

- ▶ In Ireland, in 2020, the Labour Employer Economic Forum, a peak-level tripartite dialogue body, discussed and agreed on a "Work Safely Protocol", which recommended, inter alia, negotiations at the workplace to agree on any temporary reorganization of work arrangements.<sup>50</sup>
- ▶ In Italy, two national tripartite protocols on OSH were transposed into Presidential Decrees (14 March and 24 April 2020).<sup>51</sup> In addition to specifying OSH measures, they paved the way for their implementation through bipartite social dialogue and collective bargaining.

**Where collective bargaining was a well-established practice, parties used it to implement, tailor and monitor compliance with public health measures in the context of well-established OSH management systems. This contributed to the effective and inclusive management of OSH and enhanced the resilience of workplaces.** Two broad themes may be identified (see figure 5.9 and table 5.3). The first is participation in the risk assessment and response, including the creation of dedicated COVID-19 committees or mandating existing OSH committees. The second is agreement on COVID-19 prevention and control measures, including substitution, engineering and organizational controls and adequate PPE.

▶ **Figure 5.9 Ensuring safe and healthy workplaces: A thematic analysis of collectively negotiated responses, 2020–21**



49 A hierarchy of controls for minimizing the risks of contagion at work is as follows: (a) elimination and substitution: eliminate or reduce exposure and the rate of transmission by substituting work processes; (b) engineering controls: controls that reduce exposure, such as improving ventilation and installing physical barriers at the workplace; (c) administrative and organizational controls: work policy or procedures to reduce or minimize exposure, such as physical distancing, hygiene rules and infection control mechanisms; and (d) PPE.

50 The [Work Safely Protocol](#) was published in November 2020 and updated in December 2020, May 2021 and September 2021 to reflect the "Resilience and Recovery 2020–2021: Plan for Living with COVID-19" framework adopted by the Government. Under the Protocol, employers were required to continue to agree, through negotiation with workers and trade unions, on any temporary restructuring of work patterns that might be required to implement COVID-19 prevention measures in the workplace, taking into account existing sectoral agreements.

51 Protocollo condiviso di regolamentazione delle misure per il contrasto e il contenimento della diffusione del virus Covid-19 negli ambienti di lavoro (14 March 2020 and 24 April 2020).

## Participating in COVID-19 safety and health measures

The OSH committees established through collective agreements played a central role in implementing, tailoring and monitoring prevention and control measures at the workplace. In a few instances, collective agreements expanded the terms of existing OSH committees.<sup>52</sup> This included the implementation of prevention protocols, investigation of and reporting on the health risks associated with COVID-19, and the joint inspection and monitoring of safety and health conditions at the workplace (see table 5.3). In other instances, bargaining parties set up dedicated crisis committees to oversee the implementation of COVID-19-related safety and health measures.<sup>53</sup> For example, in South Africa, sectoral

bargaining councils in the textile and clothing sector created a COVID-19 Lockdown Rapid Response Task Team (see box 5.11).

Collective bargaining on OSH in and of itself implied participation in the governance of OSH, including the implementation of public health measures (that is, replicating or executing these in collective agreements). This governance capacity proved invaluable in strengthening compliance with OSH measures, protecting workers and ensuring business continuity. Evidence collected under the joint ILO-IFC Better Work programme indicates that enterprises with collective agreements exhibited lower levels of non-compliance with OSH standards throughout 2020 than enterprises not covered by collective agreements (see box 5.8).

### ► Box 5.8 Better Work assessment of OSH compliance during the COVID-19 pandemic

The Better Work programme is a collaboration between the ILO and the International Finance Corporation (IFC) to improve labour standards and competitiveness in the global garment industry. Participating factories work with other partners to improve compliance with the fundamental principles and rights at work and national labour law covering wages, employment contracts, OSH and working time. A study conducted prior to the COVID-19 pandemic found that the presence and implementation of a collective agreement reduced levels of non-compliance (Lupo and Verma 2020).

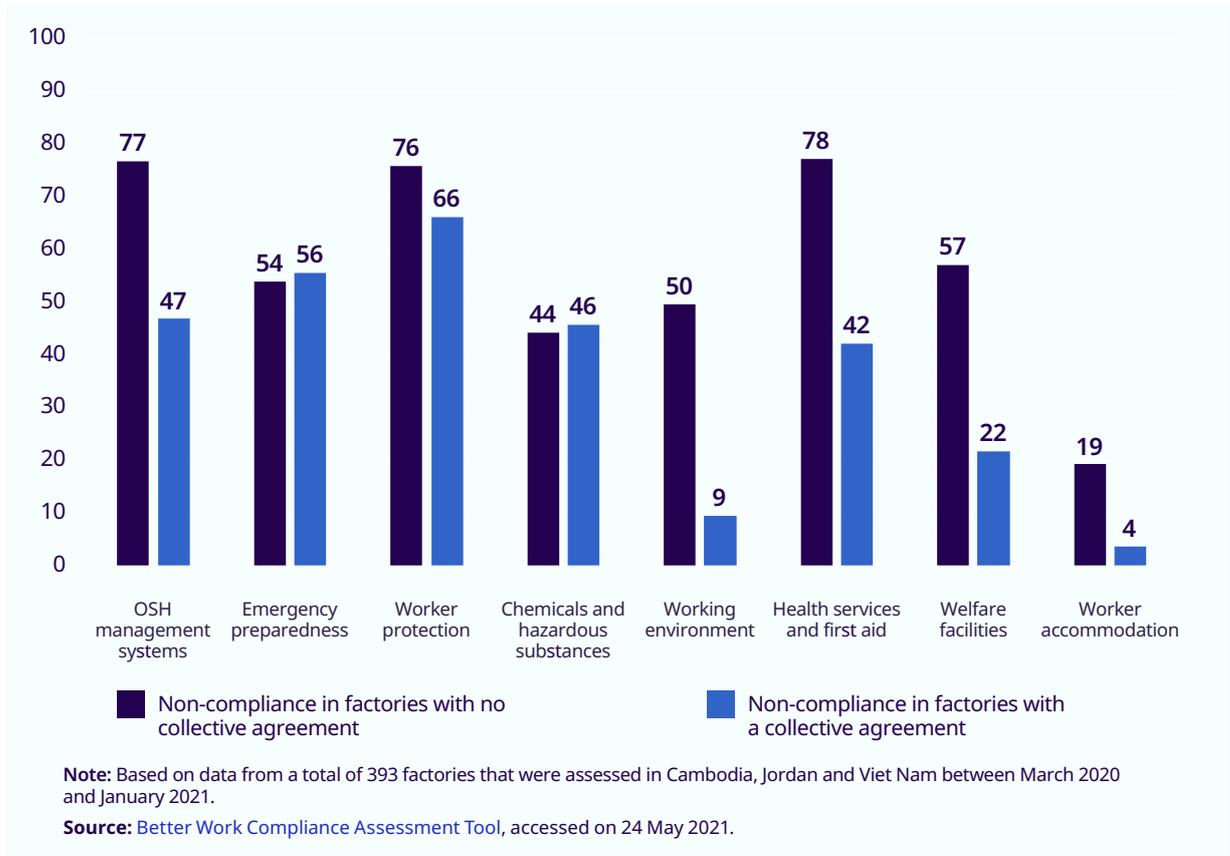
The presence of a collective agreement can have both direct and indirect effects on compliance. Collective agreements can directly influence OSH compliance through the inclusion of provisions on workers' health, such as the sectoral agreement in Jordan, which recognizes the need to promote the mental well-being of workers (see box 3.7 in Chapter 3). Collective agreements can also have an indirect effect by improving information on the applicable OSH standards and strengthening dialogue and cooperation in the workplace. Additionally, in factories where there is a collective agreement, workers are more likely to use existing employee voice mechanisms to report non-compliance.

Garment factories have been severely affected by the COVID-19 crisis and have experienced significant disruptions to production orders. They adjusted by negotiating measures to protect employment and by minimizing the risk of transmission in the workplace. Analysis of data on compliance with OSH measures in 393 garment factories in Cambodia, Jordan and Viet Nam during the COVID-19 pandemic shows that those factories with a collective agreement also reported better compliance with OSH. Importantly, non-compliance with OSH standards was lower in factories with a collective agreement than in those without one.

<sup>52</sup> For example, at the sectoral level in agriculture (CBA-Colombia#2) and at the enterprise level in the energy sector (CBA-France#24).

<sup>53</sup> For example, at the territorial level in construction (CBA-Brazil#280), at the sectoral level in manufacturing (CBA-Italy#147, CBA-Republic of Korea#75, CBA-Republic of Korea#107, CBA-Republic of Korea#481, CBA-South Africa#251, CBA-South Africa#313, CBA-South Africa#421).

► **Figure 5.10 Compliance with OSH measures in Cambodia, Jordan and Viet Nam, based on presence of a collective agreement (percentage)**



## COVID-19 prevention and control

Throughout 2020 and 2021, collective negotiations were held, both formally and informally, on how most effectively to implement public health measures and prevent and control infection (see box 5.9 for Colombia and box 5.10 for the Philippines). Certain work environments proved to be flashpoints for the transmission of the virus (*The Lancet* 2020; Middleton, Reintjes and Lopes 2020). For example, in the meat-processing sector, the close proximity of workers in production lines and inadequate air filtration systems in closed factories increased the risk of contagion. Countries adopted different strategies to prevent contagion in this industry. In Ireland, the meat industry association and trade unions agreed to a safety protocol to protect workers in the industry (Murray 2020). In Germany, new legislation was adopted to safeguard OSH, prohibiting the hiring of temporary workers.<sup>54</sup> In Belgium and France, bargaining parties concluded sectoral agreements to tackle the specific challenges in the sector (Erol and Schulten 2021).

Other examples of collective agreements reached include:

- In Canada, an enterprise agreement (2021) in a meat production, processing and distribution firm grants a total of 80 weekly hours of paid leave to two Risk Prevention Representatives from the trade union (up from 40 hours), and ensures that workers are given sufficient time to change clothing when undergoing significant temperature changes and to comply with sanitary protocols when leaving the barn or slaughterhouse. The parties also agreed to cooperate through the joint health and safety committee to update the risk prevention programme (CSN 2021).
- In Denmark, the sectoral agreement (2020) for the meat industry includes provisions on PPE specifying workwear for various refrigerator rooms depending on the temperature and activity levels. Night workers are entitled to a regular free health assessment at least once every two years. The agreement also covers absence due to incapacity for work and absence because of a sick child.<sup>55</sup>

<sup>54</sup> The German Health and Safety Control Act entered into force on 1 January 2021. Enterprises with fewer than 50 employees are excluded from this regulation and there is some provision for other enterprises to engage temporary workers under strict conditions and controls based on a collective agreement until April 2024.

<sup>55</sup> CBA-Denmark#94.

- In the Netherlands, a sectoral agreement for the meat industry refers to a “Health and Safety Catalogue” covering issues such as machine safety, knife safety, repetitive strain injury and work pressure.<sup>56</sup>

To reduce exposure to the virus at the workplace, bargaining parties frequently agreed on temporary changes to work organization, where possible **substituting telework for on-site work**. Agreements on the temporary reorganization of work frequently took account of the risks faced by different groups of workers, including workers with pre-existing health conditions, pregnant and breastfeeding women, and workers with disabilities.<sup>57</sup> In Argentina, agreements in the commerce, accommodation and food services, and telecommunications sectors provided for the implementation and tailoring of state-mandated health and safety regulations, such as safe distancing and the recommendation for workers in high-risk groups and those over the age of 60 to telework.<sup>58</sup> Sectoral agreements in Germany and Spain made provision for teleworking on the basis of an agreement between relevant parties at the enterprise level.<sup>59</sup> In the United States, an enterprise-level agreement in the education sector included plans for shifting to online learning in the event of outbreaks at the classroom, school, or district level.<sup>60</sup>

On the basis of joint risk assessments, bargaining parties also reached agreement on a range of **engineering, organizational and administrative controls**. These included adequate ventilation, as provided, for example, by the opening of windows and doors, the use of centralized ventilation systems and the installation of barriers.<sup>61</sup> For example, in France, an enterprise agreement in manufacturing set out measures to ensure that

safe distances could be maintained, including the doubling up of queues for transport, protocols for entry and exit, the staggered placement of workers on the assembly line, assignment of workers to particular working days and the refurbishment of common areas.<sup>62</sup> A number of collective agreements also incorporated protocols for good hygiene practices, such as the washing of hands, the distribution of individual sanitation kits and the use of hydroalcoholic gels.<sup>63</sup> Other organizational and administrative measures agreed included provisions for temperature checks at entrances to workplaces to prevent workers infected by the virus from entering<sup>64</sup> and provisions for the quarantining of workers who had been exposed to COVID-19.<sup>65</sup> A number of agreements clarified the protocol to be followed in the event of infection or exposure, specified the follow-up required by management and workers during their recovery, and laid down protocols for workers returning to the workplace after periods of self-isolation or illness.<sup>66</sup> Provisions in collective agreements also ensured the protection of workers at high risk, and addressed the accommodation of workers with particular needs, such as workers with disabilities.<sup>67</sup>

#### ► Box 5.9 Securing safe and healthy workplaces in Colombia

In Colombia, collective bargaining is conducted at the enterprise level, with the exception of the banana plantations, where a general collective agreement (2019–20) covers 320 farms. A number of collective agreements concluded during the pandemic included provisions to prevent and control the risk of COVID-19 workplace contagion.

56 CBA-Netherlands#97.

57 For example, at the sectoral level (CBA-Colombia#169) and at the enterprise level (CBA-Colombia#392, CBA-France#245, CBA-France#247).

58 For the agreements in the retail sector, see Appendix IV.

59 CBA-Germany#26 and CBA-Spain#326.

60 CBA-USA#124.

61 For example, at the territorial level (CBA-Brazil#266) and at the enterprise level (CBA-France#18 and CBA-France#24).

62 CBA-France#18.

63 For example, at the sectoral level (CBA-Colombia#2, CBA-Peru#400). Some agreements lengthened breaks for personal hygiene; for instance, at the enterprise level (CBA-France#18). Others included provisions for enhanced cleaning and sanitation of work surfaces, work tools and common areas, for example, elevator buttons, door handles, water fountains and cafeteria spaces; for instance, at the territorial level (CBA-Republic of Korea#74) and at the enterprise level (CBA-Italy#37).

64 For example, at the sectoral level (CBA-Colombia#2) and at the enterprise level (CBA-France#17 and CBA-USA#128).

65 For example, in the United States, one enterprise-level agreement included an exceptional 90-minute short notice for calling in sick during the COVID-19 period (CBA-USA#486); another enterprise-level agreement included COVID-19-related leave of absence with basic pay for up to 26 weeks (CBA-USA#469).

66 For example, at the enterprise level (CBA-France#23 or CBA-United Kingdom#467).

67 For example, at the sectoral level (CBA-Colombia#169) and at the enterprise level (CBA-France#16, CBA-France#24, CBA-France#245, CBA-United Kingdom#467).

**Box 5.9 (cont'd)****Sectoral protocol for the banana plantations:**

this protocol contains provisions on safe distancing at the workplace and in transport; handwashing protocols; the cleaning and disinfection of equipment, and PPE. It also provides for the verification of the health status of suppliers and customers in the agro-industry chain, and for the quarantining of persons with symptoms. Workers over the age of 65 were not required to work when the pandemic was at its most severe. Joint OSH committees monitor the implementation of the protocol, which the majority of the plantations are following. The protocol enabled banana production for national and international markets to continue uninterrupted, while allowing more than 900 vulnerable workers to remain at home. As a result of the negotiation and joint implementation of the protocol, the incidence and morbidity rates of workers engaged in the production, handling and marketing of bananas have been lower than those for the region as a whole.

**Enterprise-level agreement in the food manufacturing sector (2020):**

this agreement provided for the installation of transparent acrylic plastic dividers to separate workers in common areas and cafeterias, the availability of handwashing stations and access to adequate PPE. Moreover, the enterprise agreed to hire a doctor and nurses to attend to workers and their families. The agreement also covered the quarantining of workers who had come into potential contact with COVID-19.

**Enterprise-level agreement in the financial sector (2020):**

to protect the safety and health of those working remotely, the parties agreed to incorporate telework into the OSH programme, which is reviewed and developed together with the joint OSH committee in accordance with the law, and with the support of the Labour Risks Administrator, the life insurance body covering illnesses and accidents.

Source: ILO.

Many agreements were reached at both the sectoral and enterprise level on the procurement, provision and correct use of **PPE to protect workers against exposure to COVID-19**, including face masks and face shields.<sup>68</sup> These agreements also dealt with the distribution and preferential allocation of PPE to certain groups of workers, how to wear such equipment correctly, and how to disinfect and dispose of it. In Austria, for the first time since 1978, a general collective agreement was reached in 2021 which included protocols for rest breaks from mask-wearing, in addition to provisions for COVID-19 testing. These protective measures were subsequently extended into 2022.<sup>69</sup>

In addition to workplace OSH measures, the healthcare and sickness benefits provided for in the majority (70 per cent) of collective agreements reviewed (see Chapter 3) proved invaluable in ensuring that workers could take sick leave and had access to healthcare (see box 5.9). Some employers agreed to extend paid sick leave for workers diagnosed with COVID-19 or to supplement health insurance policies for those workers who did not yet have full coverage.<sup>70</sup>

As vaccinations became available in some countries in 2020, and in 2021 in others, the issue began to appear on bargaining agendas. In some instances, parties agreed to support vaccination initiatives, using company facilities and medical personnel for vaccination to facilitate access during working hours.<sup>71</sup> In others, parties agreed to additional vaccination-related sick leave and that the employer would cover the costs of the vaccination.<sup>72</sup> Some enterprise agreements either provided additional financial compensation as an incentive for vaccination or agreed to a reduction in wages for unvaccinated persons unable to perform duties or, in the case of sports, take part in matches owing to vaccination requirements in particular countries or territories.<sup>73</sup> A few agreements contain a general commitment by the employer to cover the costs of vaccination for all workers who face a risk of exposure to vaccine-controlled infections.<sup>74</sup> In Belgium,

68 For example, at the territorial level (CBA-Brazil#284 and CBA-Brazil#286), at the sectoral level (CBA-Colombia#2, CBA-Colombia#169, CBA-Italy#359, CBA-Peru#400, CBA-Republic of Korea#481, CBA-South Africa#316) and at the enterprise level (Costa Rica (Appendix IV), CBA-Chile#450, CBA-France#18, CBA-Hungary#62, CBA-Hungary#158, CBA-Italy#37, CBA-Sri Lanka#156).

69 CBA-Austria#123 and CBA-Austria#355.

70 For example, at the enterprise level (CBA-Spain#425 and CBA-USA#469).

71 At the sectoral level (CBA-Italy#131, concluded in April 2021 and CBA-South Africa#420, concluded in April 2021).

72 For example, at the interprofessional level (CBA-Czechia#384) and enterprise agreements in the Philippines (Appendix IV, agreements concluded in 2020).

73 Enterprise agreement in aviation (CBA-USA#462, concluded in May 2021) and sectoral agreement in sports (CBA-USA#138, concluded in October 2021).

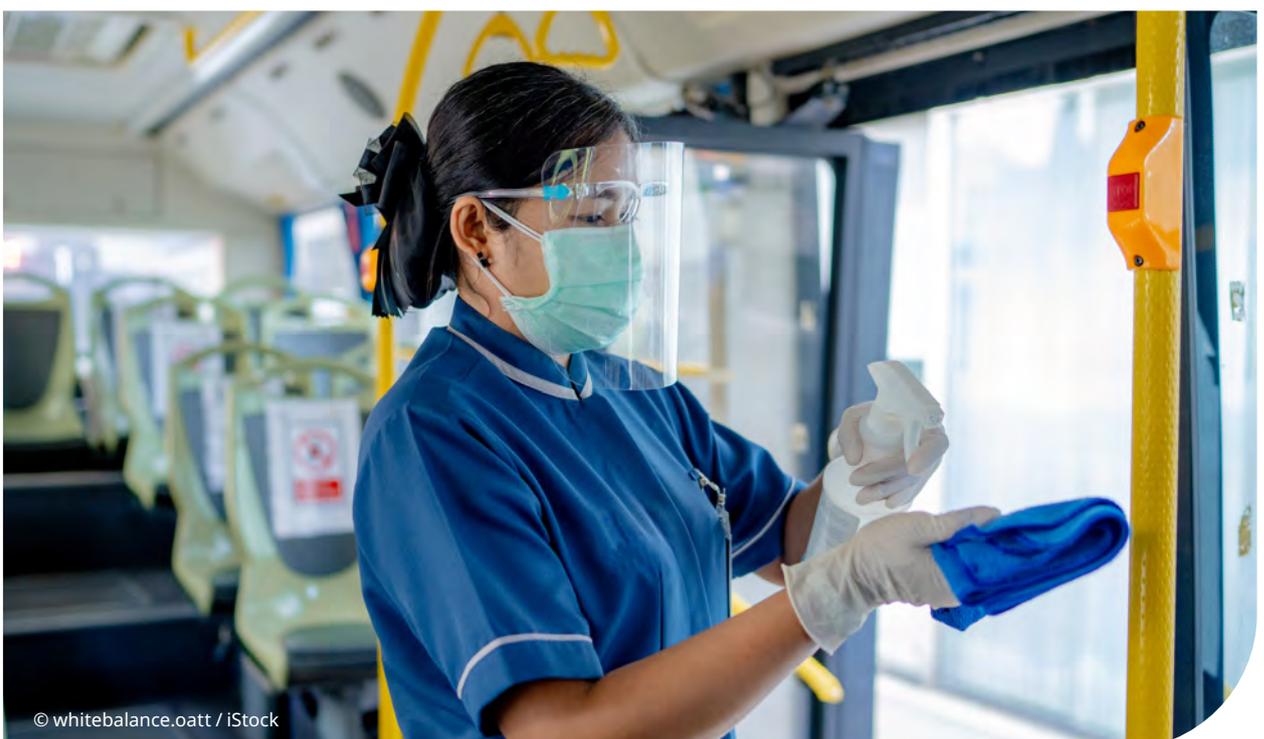
74 For example, at the sectoral level (CBA-Lithuania#41, concluded in July 2020), and at the enterprise level (CBA-Cambodia#458, concluded in January 2020 and CBA-Slovakia#365, concluded in April 2021).

► **Box 5.10 Responding to the COVID-19 health crisis through collective bargaining in the Philippines**

In the Philippines, collective bargaining takes place predominantly at the enterprise level. In enterprises covered by collective agreements, such negotiations played an important role in ensuring business continuity and protecting income and workers during the early stages of the pandemic. Collective bargaining was also used as a tool to respond to the immediate health risks posed by the pandemic by enhancing statutory protections. The summary below is based on the analysis of 40 collective agreements across seven sectors concluded during the early stages of the pandemic (from April 2020 to April 2021), and on interviews with trade unions and an employers' organization.

Protecting healthcare workers	OSH measures for COVID-19 prevention and control	Healthcare benefits and sick leave
<ul style="list-style-type: none"> <li>▶ Free shuttle transport for employees</li> <li>▶ Provision of accommodation and food for front-line/hospital workers</li> <li>▶ Free quarantine accommodation and food for employees infected with COVID-19</li> <li>▶ Provision of support for workers' mental health as part of an inner resilience programme</li> </ul>	<ul style="list-style-type: none"> <li>▶ Extending health insurance coverage to COVID-19 tests</li> <li>▶ Introduction of 14-day quarantine leave (in addition to pre-existing leave)</li> <li>▶ Free provision of vaccinations</li> <li>▶ Extension of free vaccination programmes to workers' dependants</li> <li>▶ Advancement of leave credits (for 2021) for employees who had already exhausted their leave entitlements in 2019 and 2020 in the case of (a) workers infected with COVID-19 or undergoing repeated self isolation; (b) workers who had to use leave credits to cover days not worked during lockdowns to maintain earnings</li> </ul>	<ul style="list-style-type: none"> <li>▶ Increase in coverage for accident, health and life insurance</li> <li>▶ Employee-employer sharing of the costs of hospitalizing workers' dependants</li> <li>▶ Increase in sick-leave entitlements and inclusion of "COVID-19 infection" among the valid reasons for emergency leave</li> <li>▶ Introduction of additional leave entitlements to care for sick family members</li> </ul>

Source: ILO, see Appendix IV.



parties at the national level concluded an inter-professional collective agreement in November 2021 on absence from work for the purposes of COVID-19 testing.<sup>75</sup>

As the various waves subsided and associated public health restrictions were lifted, agreements were negotiated to facilitate a safe return to work. In some enterprise agreements this included the adoption of a phased approach and the dissemination of information about the different phases and the criteria applicable in each one.<sup>76</sup> For

example, in the United Kingdom, an enterprise-level agreement in the education sector (2020) provided the option of returning to work on a part-time basis or continuing to telework, depending on certain criteria, such as whether workers or family members were in high-risk categories or whether workers had care responsibilities.<sup>77</sup> Some agreements also referred to the right of workers to refuse to return to work if they perceived there to be a substantial threat to their health and safety at the workplace.<sup>78</sup>

► **Table 5.3 Ensuring safe and healthy workplaces**

Selected examples of provisions in collective agreements	
<b>Participating in COVID-19-related safety and health measures</b>	<ul style="list-style-type: none"> <li>▶ Expansion of mandates of OSH committees to include risk assessment, reporting and implementation of COVID-19 measures</li> <li>▶ Establishment of dedicated crisis response committees to address and monitor crises</li> </ul>
<b>Substitution</b>	<ul style="list-style-type: none"> <li>▶ Maximum use of flexible working methods for activities that can be carried out at home (telework) and suspension of activities in departments not essential to production</li> <li>▶ Mandatory telework for workers with pre-existing conditions and over the age of 65 years</li> </ul>
<b>Engineering controls</b>	<ul style="list-style-type: none"> <li>▶ Increased ventilation</li> <li>▶ Setting up partitions between workers</li> </ul>
<b>Organizational and administrative measures</b>	<p><b>Workplace measures:</b></p> <ul style="list-style-type: none"> <li>▶ Temperature checks at the workplace</li> <li>▶ Limited movement within sites and restricted access to common spaces</li> <li>▶ Adequate distancing during transport of workers to the work site</li> <li>▶ Limited occupancy of floors and workplaces</li> </ul> <p><b>Hygiene practices:</b></p> <ul style="list-style-type: none"> <li>▶ Provision of individual sanitation kits (alcohol gel) for the duration of the public health emergency</li> <li>▶ Lengthening of breaks for personal hygiene</li> </ul> <p><b>Workplace cleaning:</b></p> <ul style="list-style-type: none"> <li>▶ Increase of workplace sanitization</li> </ul> <p><b>Infection control:</b></p> <ul style="list-style-type: none"> <li>▶ Paid sick leave for COVID-19 with shorter notice periods (of intention to take sick leave)</li> <li>▶ Paid leave for self-isolation periods</li> <li>▶ Workers returning from COVID-19 sick leave to be assessed and cleared for return by medical professionals</li> <li>▶ Vaccination roll-out at workplace using in-house clinic</li> <li>▶ Employer to cover costs of vaccination and paid vaccination leave</li> <li>▶ Right of workers to refuse to return to work if there is a substantial threat to their health and safety at the workplace</li> </ul>
<b>Personal protective equipment</b>	<ul style="list-style-type: none"> <li>▶ Provision of adequate PPE</li> <li>▶ Correct use of and rest from PPE</li> </ul>

75 Belgium, National Work Council, "Convention collective de travail N° 160 du 19 Novembre 2021 introduisant une absence justifiée du travail pour un test de dépistage du Covid-19 sur la base du Self Assessment Testing Tool".

76 For example, at the enterprise level (CBA-France#23, CBA-France#24).

77 CBA-United Kingdom#467.

78 For example, at the sectoral level (CBA-Slovenia#475) and at the enterprise level (CBA-Canada #334, CBA-Canada #341).

# 5.4

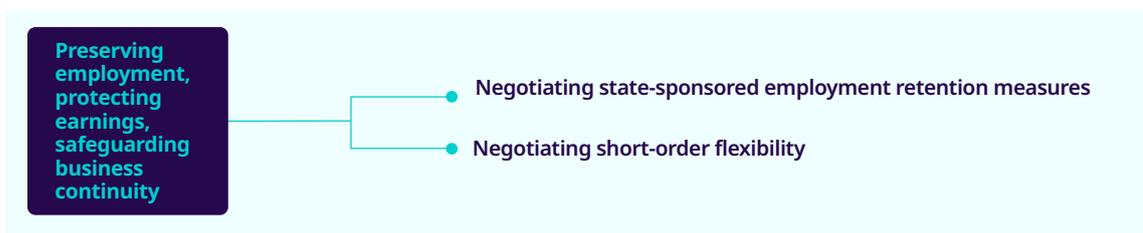
## Preserving employment, protecting earnings, safeguarding business continuity

Business continuity on the one hand, and employment and income security on the other, became pressing concerns during the successive infection waves and lockdowns. Although the pandemic affected all forms of work and employment, the impact varied across sectors (ILO 2021i). Some sectors, such as finance, insurance and information and communications

technology (ICT), remained dynamic. However, in many other sectors, employers experienced severe liquidity constraints owing to the partial or complete suspension of activity, the non-availability of inputs due to border closures, and the fall in demand. Workers faced heightened insecurity as a result of actual or potential employment losses. The need to care for children and sick family members placed additional constraints on working time. Issues related to business continuity, employment security and working-time flexibility dominated the bargaining agenda throughout 2020 and 2021 in a context that was – and in some countries still remains – highly uncertain.

As noted previously, the unprecedented extension and adaptation of social protection systems provided income support through unemployment protection and employment retention schemes (ILO 2021b). **Two main themes can be singled out (see figure 5.11 and table 5.4). First, the implementation of state-sponsored employment retention measures including short-time work, partial unemployment, wage subsidies and furlough schemes. Second, the negotiation of short-order flexibility in wage-setting, working time and work allocation in exchange for employment guarantees. Both strategies included recovery provisions and sought to retain skills for when activity could resume. Various important measures sought to mitigate the potential effects of the COVID-19 crisis on inequality, such as solidarity agreements and measures aimed at balancing work with additional care responsibilities.**

► Figure 5.11 Preserving employment, protecting earnings, safeguarding business continuity: A thematic analysis of collectively negotiated responses, 2020–21



### Designing, tailoring and implementing state-sponsored employment retention measures

From the onset of the COVID-19 crisis, a number of governments in Europe and other regions introduced, adapted or significantly expanded the coverage of existing employment retention schemes. These included short-time work schemes aimed

at retaining jobs by providing full or partial wage support to enterprises for hours not worked, and temporary lay-offs and furlough schemes aimed at providing income support for workers who were temporarily unemployed (Drahokoupil and Müller 2021). In this way, workers retained their contracts of employment where work was partially or fully suspended, while employers were able to avoid the costs of rehiring and training

workers when economic activity rebounded. Institutional experience in the negotiation of work-sharing arrangements during the Great Recession of the late 2000s made it possible to scale up and extend measures into new sectors (Drahokoupil and Müller 2021). Depending on the country context, collective bargaining played a key role in the design and implementation of these schemes, and in some instances supplemented statutory income support.

**In some countries, tripartite social dialogue and/or consultation with peak-level actors on the design and expansion of employment retention measures facilitated their implementation through collective bargaining** (for example, Denmark,<sup>79</sup> Luxembourg,<sup>80</sup> South Africa<sup>81</sup> and Uruguay<sup>82</sup>). In others, newly adopted legislation and regulations necessitated the implementation of employment retention measures through collective agreements (for example, in Germany,<sup>83</sup> Italy,<sup>84</sup> the Netherlands<sup>85</sup> and Poland<sup>86</sup>), which facilitated the implementation of such schemes.

In countries with long-standing traditions of social partnership, **collective agreements shaped the design and/or implementation of these schemes** (see box 5.11 for South Africa).

► In Austria, an agreement concluded in May 2020 between the social partners adapted and extended the short-time work scheme. It made support for short-time work dependent on a collective agreement between an employer and a works council. The agreement was approved by

the Minister of Employment and Social Affairs. The social partners and the federal Government subsequently agreed to extend the regulations with some modifications (Eurofound 2020d).

- In Belgium, an agreement was reached in the National Labour Council in March 2020 on an employer supplement and on expanding the temporary unemployment scheme to cover white-collar workers. A subsequent agreement extended the arrangement until the end of 2021.<sup>87</sup>
- In Sweden, the strengthening of the new short-time work scheme (introduced in 2014) through agreement with the social partners led to a wave of collective agreements at the sectoral and enterprise levels (Johansson and Selberg 2020). This enabled the rapid incorporation of provisions on short-term work into collective agreements.<sup>88</sup> As at September 2021, short-time work had been agreed in 558 of the 666 collective agreements in the private sector (Torstensson 2022; Sweden, National Mediation Office 2020).
- In Argentina, on 31 March 2020, an emergency decree was issued (No. 329/20) prohibiting dismissals without cause and dismissals and suspensions for reduction of work and force majeure for a term of 60 days. The only exception, as stipulated in article 3 of the emergency decree, was for suspensions carried out under the terms of article 223 bis (1996) of the Labour Contract Act.<sup>89</sup> The Ministry of Labour, Employment and Social Security implemented the exception

79 See Eurofound (2020c).

80 See Planet Labor (2020).

81 Appendix IV.

82 The National Dialogue for Employment (Diálogo Nacional por el Empleo) adopted an agreement in 2020 to extend partial unemployment insurance by relaxing the eligibility criteria.

83 Legislation adopted in March 2020 (*Bundesgesetzblatt* 2020, Part I, No. 14, p. 595) and valid until December 2021 also included temporary improvements and extension of the regular short-time work (STW) scheme: (a) STW compensation would be paid if at least 10 per cent of the workforce were affected (in contrast to one third in normal times); (b) partial or even full payment of social security contributions by the Federal Employment Agency (not by the employer); and (c) the extension of STW to temporary agency workers (who are excluded from the regular scheme).

84 Under article 1(2)(l) of Decree-Law No. 23 of 8 April 2020, companies qualified for a state guarantee on bank loans if they undertook to manage occupational levels through collective agreements (Biasi 2020).

85 A ministerial decree of 1 May 2020 amended the Temporary Emergency Bridging Measure for Sustained Employment scheme, introducing additional conditions, including the requirement that there had to be an agreement with the trade unions (Bennaars and Haar 2020).

86 Article 11 of one of the three Acts that came into force on 1 April 2020 as part of a package of legislation commonly known as the “Anti-Crisis Shield” requires that before submitting an application for state support, a company must conclude an agreement with representative unions or a company trade union. In terms of the scope of application of the law, a separate provision (namely, a subsidy from the district *staroste* of up to 2,340 Polish zloty) applies to MSMEs which does not require an agreement with workers.

87 Collective Labour Agreement No. 147 of 18 March 2020 was ratified by a Royal Decree of 25 March 2020 and gazetted in the *Moniteur Belge* on 10 April 2020. Enterprises without a trade union could introduce the scheme by modifying the work regulations. More information is available on the website of the National Labour Council, <http://www.cnt-nar.be/Dossier-FR-covid-19.htm>.

88 See the website of the Swedish National Mediation Office, <https://www.mi.se/>.

89 “Non-remunerative benefits shall be considered to be cash allowances paid as compensation for work suspensions based on the grounds of lack or reduction of work, not attributable to the employer, or for force majeure duly proven, agreed individually or collectively and approved by the enforcement authority, in accordance with legal regulations in force, and when by virtue of such grounds the worker does not perform the work for which he/she is responsible. Only the contributions established in Acts Nos 23.660 and 23.661 shall be paid.” (article incorporated by section 3 of Act No. 24.700, published in the *Boletín Oficial* on 14 October 1996).

through Resolution No. 397/20, published on 30 April 2020. It also adopted the guidelines on the suspension of employment and related income support that had been agreed between the General Confederation of Labour and the Industrial Union of Argentina in a framework agreement for the private sector. According to the guidelines, income support would amount to 75 per cent of the wages that workers would have earned under normal conditions. Employers were required to continue paying contributions to social funds (*obras sociales*) administered by the trade unions. At the same time, businesses would receive state support to enable them to pay these allowances through the Emergency Assistance Programme for Work and Production.<sup>90</sup>

- ▶ In Brazil, under Act No. 14.020/2020, previously ordinance MP 936 (*Medidas provisórias*), enterprises could reduce working hours for

up to 75 per cent, with a proportional reduction in wages. These arrangements could be implemented either unilaterally or through collective agreements.<sup>91</sup> Workers could claim an Emergency Benefit for the Preservation of Employment and Income. However, depending on the reductions, the threshold for income replacement could be very low. Thus, although enterprises were entitled to implement these arrangements unilaterally, many enterprises and unions reached collective agreements on teleworking and other measures, such as short-term work, to prevent suspensions and enable workers to maintain a basic standard of living.<sup>92</sup> For example, parties in the manufacturing sector in the State of Rio Grande do Sul negotiated a territorial agreement (2020–21) preventing suspensions through the “banking” of inactive days and/or wage moderation.<sup>93</sup>

#### ▶ **Box 5.11 Partnering for business continuity and employment in South Africa**

In South Africa, sectoral-level bargaining, either in bargaining councils or multi-employer forums, continues to be the predominant form of collective bargaining. Mature industrial relations in some of these sectoral bargaining institutions enabled members to partner for business continuity in a highly constrained and uncertain economic context.

In March 2020, the Minister of Employment and Labour issued an emergency directive to create a COVID-19 Temporary Employee/Employer Relief Scheme (TERS) under the Unemployment Insurance Fund.<sup>1</sup> The TERS scheme replaces lost income resulting from temporary lay-offs or reductions in working hours. Five sectoral bargaining councils entered into agreements with the Scheme to receive and administer the relief funds for their sectors through sectoral agreements. This enabled the Government’s labour administration system to focus limited resources on sectors which were not co-regulated.

##### **National Bargaining Council for the Clothing Manufacturing Industry (NBCCI)**

A Clothing and Textile Sector Master Plan was adopted in early 2020. This is an industrial strategy formulated jointly by employers’ organizations, the trade union and the major clothing retailers. The Master Plan supports employment creation in the industry.

At the beginning of the pandemic, an NBCCI agreement was applicable (1 September 2019 to 1 March 2021). The industry was significantly affected by lockdowns and border closures, including the temporary halting of fabric imports and the closure of factories and clothing retail shops. Faced with these challenges, the NBCCI negotiated four COVID-19-related agreements. All were extended by the Minister of Employment and Labour to the sector:

- ▶ COVID-19 Lockdown 1 Collective Agreement (23 March 2020)
- ▶ COVID-19 Lockdown 2 Collective Agreement (12 May 2020)
- ▶ COVID-19 Personal Protection Equipment and Other Essential Products Collective Agreement (2 June 2020)
- ▶ COVID-19 Vaccine Rollout Campaign Framework Agreement (6 April 2021)

<sup>90</sup> Employers also received funds under the Productive Recovery Programme (REPRO) (Appendix IV).

<sup>91</sup> Workers affected by these suspensions or reductions had their employment secured during this period and for an equal time span after re-entering the workforce.

<sup>92</sup> Appendix IV.

<sup>93</sup> CBA-Brazil#286 and Appendix IV.

**Box 5.11 (cont'd)**

The **first agreement (23 March 2020)** committed the NBCCI to obtain statutory funds to partially compensate workers for lost earnings due to the impending lockdown. Employers agreed to pay three out of six weeks during the first lockdown, the remaining three weeks being paid in full from statutory funds received by the NBCCI. The agreement also established a Rapid Response Team “to consider and resolve any unforeseen or response matters emanating from the implementation of this agreement and which may arise during the COVID-19 lockdown period, with the finalisation of exemption applications [from the application of the extended collective agreement] receiving first priority”.

The **second lockdown agreement (12 May 2020)** extended the first agreement, continuing the arrangement with the statutory TERS scheme and introducing measures to ensure compliance with the terms of the agreement. Having been classified as “essential service providers”, a number of clothing firms began producing personal protective equipment (PPE) and operating at 50 per cent capacity on a rotating basis so that workers were protected and all workers had the opportunity to work and earn wages.

A **third COVID-19-related agreement (2 June 2020)** provided the sector with the full backing of organized business and labour in the production of PPE and other products. The agreement set a production target for the industry (100 million fabric face masks per month). A PPE Rapid Response Task Team was established to implement the agreement. The agreement provided a framework for the production of PPE in a regulated environment. It established a register of PPE Manufacturing Qualifying Companies, accredited by the NBCCI. To qualify for accreditation, enterprises were required to be registered with the NBCCI; to have a compliance certificate; to have submitted a COVID-19 Customised Workplace Awareness, Protection and Prevention Plan to the NBCCI; to have a Workplace Health and Safety Committee; to have registered all employees with the Unemployment Insurance Fund; and to have applied for membership in the “Proudly South African” social labelling initiative.

The **fourth agreement (6 April 2021)** encouraged all employees in the sector to get vaccinated with a view to achieving an 80 per cent immunity target. The Clothing and Textile Workers’ Union’s Worker Health Programme and workplace medical facilities were made available to support the vaccination campaign.

When negotiations commenced for a new wage agreement, the bargaining parties agreed to a six-month wage standstill, which meant that there would be no wage increase during the period from 1 September 2020 to 1 March 2021. As from 1 March 2021, workers would receive a 3.7 per cent increase (equivalent to the increase in the consumer price index (CPI)), and for the second year of the agreement the increase would be CPI plus 1 per cent.

<sup>1</sup> South Africa, Department of Labour, *Notice No. 215 of 2020*.

**Source:** ILO, see Appendix IV.

**Collective bargaining also played a key role in improving the replacement rates of employment retention schemes.** In Germany, sectoral agreements already in force – for example, in the chemical industry and the metal and electrical industry in the State of Baden-Württemberg – provided supplements to statutory short-time benefits. In response to the pandemic, new agreements were concluded in the film production sector, metalworking (new regions), local government, vehicle repair, the food service sector, banking and insurance, ports, retail (North

Rhine-Westphalia), the rubber industry and the paper manufacturing industry. These increased the level of the allowance from 60 per cent (statutory allowance) to between 75 and 100 per cent (Schulten and Müller 2020; Schulten 2021).<sup>94</sup> In other countries, agreements at the sectoral level explicitly addressed distributional concerns: the top-ups to statutory benefits ensured that earnings for low-wage workers did not fall below the specified wage floor, or they provided for disproportionately higher supplements for lower-paid workers.<sup>95</sup> In some instances, these supplements

<sup>94</sup> See CBA-Germany#27 for film production, CBA-Germany#31 for local government, CBA-Germany#1 for food service, CBA-Germany#29 for the rubber industry.

<sup>95</sup> For example, at the sectoral level (CBA-Argentina#240, CBA-Argentina#257, CBA-Argentina#259, CBA-Germany#29) and at the enterprise level (CBA-Croatia#8, CBA-France#22, CBA-France#54).

were made possible by using existing sectoral social funds.<sup>96</sup>

In France, enterprises and trade unions at the enterprise level in manufacturing companies, acting in solidarity, created supplementary funds to top up income support during partial unemployment.<sup>97</sup> In a few instances, managers agreed to reduce their own earnings – for example, by increasing their working hours at the same pay, or by contributing leave equivalents to solidarity funds.<sup>98</sup> State-sponsored short-time work was at times combined with other forms of working-time flexibility. In these instances, bargaining parties agreed to exhaust working-time accounts, banked hours and annual leave before resorting to state-sponsored short-time work or temporary lay-offs.<sup>99</sup> Some agreements retained compensation for training taking place outside working hours and included joint commitments to skills development during periods of temporary unemployment.<sup>100</sup>

Collective agreements supported the maintenance of social security during periods of short-time work or temporary unemployment. Some agreements included commitments by the

employer to maintain social security and health insurance contributions throughout such periods.<sup>101</sup> For example, in Argentina, following the adoption of the framework agreement referred to above between peak-level actors, sectoral agreements in the private sector guaranteed that as part of income support payments, trade unions would continue to receive the funding necessary to administer healthcare and other social funds.<sup>102</sup>

**In many countries, enterprises benefiting from state-sponsored employment retention schemes were prohibited from carrying out individual or collective dismissals for economic reasons. In some instances, collective agreements included an explicit commitment that workers on furlough would not be selected for redundancy.** A sectoral agreement in the accommodation and food service sector in Argentina included procedures for the reactivation of employment (ending the temporary suspension scheme) which ensured an equitable distribution of work opportunities among workers on their return to work.<sup>103</sup>

► **Table 5.4 Negotiating state-sponsored employment retention measures**

Examples of provisions in collective agreements	
<b>State-sponsored employment retention measures</b>	<ul style="list-style-type: none"> <li>► Commitment that workers on short-time work and furlough schemes would not be made redundant</li> <li>► Commitment to renew fixed-term contracts so as not to exclude workers from short-time work and furlough schemes</li> <li>► Creation of a solidarity fund based on contributions from employers and workers to supplement statutory replacement rates</li> <li>► Creation of solidarity funds by workers' donation of the value of their accrued leave entitlements</li> <li>► Supplements to statutory replacement rates achieved through managers' commitments to forgo a percentage of their wages during the duration of short-time or partial unemployment so as to ensure that low-paid workers would receive decent income support</li> <li>► Use of working-time accounts</li> <li>► Commitment to skills retention</li> <li>► Preserving social protection and leave entitlements</li> <li>► Restarting tasks in an even and rotating manner to ensure equal opportunities for accessing earnings</li> </ul>

96 For example, at the sectoral level (CBA-Belgium#7, CBA-Belgium#93, CBA-Belgium#378). See also Eurofound (2020e). Similar arrangements could be observed in Austria (see Eurofound 2020d).

97 For example, CBA-France#3, CBA-France#18, CBA-France#21, CBA-France#22, CBA-France#23.

98 For example, CBA-France#23, CBA-France#16, CBA-France#243 and CBA-France#22.

99 At the enterprise level (CBA-France#15, CBA-France#16).

100 For example, at the sectoral level (CBA-France#20) and at the enterprise level (CBA-France#243 and CBA-France#247).

101 For instance, at the territorial level (CBA-Brazil#306) and at the enterprise level (CBA-Italy#216, CBA-Portugal#184, CBA-Spain#425, CBA-UK#467, CBA-USA#485, CBA-Venezuela#351).

102 For example, at the sectoral level (CBA-Argentina#176, CBA-Argentina#239, CBA-Argentina#240, CBA-Argentina#250, CBA-Argentina#257, CBA-Argentina#259, CBA-Argentina#262, CBA-Argentina#263) and Argentina (Appendix IV).

103 CBA-Argentina#257.

## Negotiating short-order flexibility

**Collective bargaining was also used throughout 2020 and 2021 to negotiate flexibility in wage-setting, working time and, in a few instances, work allocation in exchange for employment guarantees. The negotiation of short-order flexibility was a crisis response, rapidly implemented and frequently time-bound** (see table 5.5). Given the highly uncertain

outlook, it conferred a certain degree of both substantive and procedural certainty on work and employment relations, reducing tensions and smoothing, at least in part, the navigation of the economic downturn. Framework agreements in countries such as Côte d'Ivoire between bipartite peak-level actors provided guidance on the types of measures that could be undertaken in a resource-constrained context (see box 5.12).

### ► Box 5.12 Forging resilience through coordinated bargaining in Côte d'Ivoire

In the context of tripartite social dialogue, peak social partners in Côte d'Ivoire set up a bipartite body called the Independent Permanent Consultation Commission (Commission Indépendante Permanente de Concertation; CIPC) to harmonize positions before presenting them to the Government. The CIPC comprises two employers' federations and five trade union federations that are representative of the private sector.

From the onset of the COVID-19 crisis, the CIPC proved to be particularly effective, facilitating a rapid response by the social partners to the emergency. Within the CIPC, the social partners signed a framework agreement on 25 March 2020 to support a coordinated response to the crisis. The framework agreement<sup>1</sup> provided guidance to enterprises on how business closures and employment losses could be avoided and workers' income preserved. It laid down the following principles:

- **Health and safety at the workplace:** the CIPC endorsed the Government's health response plan and its rapid implementation in enterprises.
- **The preservation of employment:** the CIPC agreed that the following measures should be taken to prevent employment and income losses: (a) the use of paid leave; (b) recourse to part-time work; and (c) use of rotational lay-offs, where possible. Teleworking was also mentioned as a work modality to be used by firms, where possible.
- **Institutional support to enterprises:** the CIPC agreed that the Government would support employees affected by a loss of income in order to ensure business continuity and preserve employment. This could include the deferment of repayments on loans.

<sup>1</sup> CBA-Côte d'Ivoire#140.

Source: ILO, Appendix IV.

These agreements were typically characterized by wage, working-time and functional short-order flexibility in exchange for employment guarantees.<sup>104</sup> Some also included commitments to skills retention and procedural recovery provisions, or a "better fortunes" (*retour à meilleure fortune*) clause, providing the procedural certainty needed to make concessions.<sup>105</sup> For example, in Germany, in the rubber industry, parties agreed at the sectoral level to extend existing agreements, but replacing prescribed increases with a

one-off "corona premium".<sup>106</sup> Other agreements at the sectoral and enterprise levels included a postponement, reduction or suspension of collectively negotiated allowances and bonuses.<sup>107</sup> In some instances, bargaining parties agreed to temporary changes in the wage composition – from basic pay plus bonuses and/or performance-related pay to a collectively agreed flat rate of pay – in order to protect the earnings of workers for whom allowances and/or variable pay made up a significant share of their wages.<sup>108</sup>

<sup>104</sup> For instance, at the inter-professional level (CBA-Namibia#459) and at the enterprise level (CBA-Colombia#394, CBA-Croatia#9, Estonia#411, CBA-Portugal#184).

<sup>105</sup> For example, at the sectoral level (CBA-South Africa#251) and at the enterprise level (CBA-France#21, CBA-France#243).

<sup>106</sup> CBA-Germany#29.

<sup>107</sup> For example, at the sectoral level (CBA-South Africa#251, CBA-South Africa#317) and at the enterprise level (CBA-Croatia#8, CBA-France#21).

<sup>108</sup> Enterprise agreements in Costa Rica (Appendix IV) and Viet Nam (Appendix IV).

### ► Box 5.13 Bargaining solidarity in the Republic of Korea

Collective bargaining in the Republic of Korea takes place predominantly at the enterprise level, with a few sectoral agreements – for example, in healthcare and the metal industry. In the finance industry, management and enterprise unions concluded a solidarity agreement in 2020 aimed at supporting vulnerable workers and local enterprises. Agreement was reached on donating half of the agreed wage increase (1.8 per cent) for 2020 to the worker welfare fund to improve working conditions for temporary contract workers. The remaining half would be paid out in cash and/or as gift vouchers, to be used for revitalization of the local economy – a measure designed to help small business owners in particular. The agreement was an important gesture of social solidarity with workers in insecure working arrangements and small businesses. As a result of its adoption, workers covered by the agreement effectively received no wage increase in 2020 and a 1.8 per cent increase in 2021. In addition to solidarity bargaining in the finance sector, sectoral agreements concluded in 2020 in the metal industry and healthcare prohibited the termination of temporary contract workers and placed limits on the number of such workers who could be hired.

Source: ILO, Appendix IV.

**The processes of wage bargaining and subsequent agreements were marked by a high degree of solidarity** (see box 5.13). For example, in Italy, an enterprise-level agreement in a food production company (2020) included a provision whereby workers agreed to voluntarily contribute the equivalent value of their paid leave to a fund established to assist workers who had been particularly impacted by the crisis.<sup>109</sup> Two enterprise agreements within a hotel chain suspended productivity-linked pay on a temporary basis, provided that certain productivity targets were met. This enabled the company to set up a new welfare scheme during the pandemic, which provided an annual “welfare credit” of €400 to all employees, including those on permanent and fixed-term contracts, new recruits and seasonal workers.<sup>110</sup>

Agreements, most often at the enterprise level, provided for a reduction in working time to respond to the fall in demand and partial closures, and at the same time to preserve employment. For example, in Sierra Leone, bargaining parties in the tourism industry negotiated an agreement

that guaranteed work every second week on a rotating basis to manage the drop in activity and prevent unemployment.<sup>111</sup> In some instances, there was agreement to use flexible working-time arrangements (such as “banked hours” schemes) and advance paid leave to maintain some earnings.<sup>112</sup> In others, parties agreed to “bank” inactive days during suspensions for use in 2021.<sup>113</sup> Where earnings could not be secured, parties agreed to the temporary suspension of work without pay but with a right to return.<sup>114</sup>

Faced with the closure of schools and/or in-house care services, workers with care responsibilities, the majority of them women, were left with little choice but to reduce their working time (Schiek 2020). As a result, the pandemic has had a disproportionate impact on women’s employment (ILO 2022). **While some countries already had a tradition of incorporating care-related clauses into collective agreements, in 2020 and 2021 the need to balance work with care responsibilities emerged as a key issue on the bargaining agendas in several countries** (see box 5.14).

109 CBA-Italy#34.

110 CBA-Italy#216, CBA-Italy#217.

111 CBA-Sierra Leone#362.

112 For example, at the linterprofessional level (CBA-Israel#465) and at the territorial level (CBA-Brazil#274, CBA-Brazil#280), Brazil (Appendix IV) and the Republic of Korea (Appendix IV).

113 For example, at the territorial level (CBA-Brazil#274, CBA-Brazil#288) and at the enterprise level (CBA-Israel#463).

114 See, for instance, the enterprise agreement CBA-India#453 (in manufacturing).

► **Box 5.14 Balancing work and care responsibilities**

**United States**

Enterprise agreement in phone services company (2020) includes paid childcare leave when workers cannot find alternative childcare arrangements due to COVID-19, and paid family leave to care for a person medically diagnosed with COVID-19 who is unable to provide self-care (CBA-USA#469).

**Portugal**

Enterprise agreement (2020) on exceptional transitional allocation of one month salary to workers confined to taking care of children, where schools, nurseries and other social care services are not available due to COVID-19 (CBA-Portugal#199).

**Germany**

Sectoral agreement for metal and electrical manufacturing (2020) increases paid time-off for workers responsible for the care of a dependent person or a child as a result of closures of day-care centres, schools and other contingencies (CBA-Germany#28).

Sectoral agreement for transport service providers (2021) establishes special time off for childcare as a result of COVID-19 (up to 50 days for 2021) (CBA-Germany#164).

**Norway**

Sectoral agreement for state workers facilitates use of flexible working time arrangements to accommodate COVID-19-related care responsibilities by suspending core hours (CBA-Norway#50).

Framework sectoral agreement for kindergartens (2020) expands overtime limits from 10 to 25 hours per 7 days to facilitate the provision of additional child care services for a period of 26 weeks or 6.5 months from the date of the conclusion of the agreement (CBA-Norway#49).

**Denmark**

Sectoral agreement in retail (2021) provides for additional paid leave (2.66 days) to take care of dependants from May 2020 to August 2021, after which this reverts to 2 days (CBA-Denmark#404).

**Bangladesh**

Plant-level agreement in a textile manufacturing company (2020) establishes day-care centre facility for children younger than 6 years old (CBA-Bangladesh#499).

**Republic of Korea**

Enterprise agreement in healthcare (2020) establishes workplace childcare facilities in healthcare centre in accordance with laws and regulations to support continued employment (CBA-Republic of Korea#69).

**Cambodia**

Enterprise agreement in garment manufacturing (2020) re-confirms statutory provision for day-care allowance: for infant from 18 months to 3 years old, the factory shall either provide the staff with a day-care centre or pay costs of childcare (CBA-Cambodia#170).

**France**

Enterprise agreement in a multinational electricity utility company (2020) provides for a supplementary payment to cover any shortfall in respect of existing social security childcare benefits for parents whose presence is needed on site and whose child/children cannot be placed in a crèche or school (CBA-France#24).

**Costa Rica**

Analysis of 12 collective agreements (1 March 2020–1 March 2021) shows that during the pandemic, public sector agreements included measures to improve gender equality, such as the guaranteeing of paternity leave and breastfeeding leave that surpass statutory standards (Appendix IV).

**Argentina**

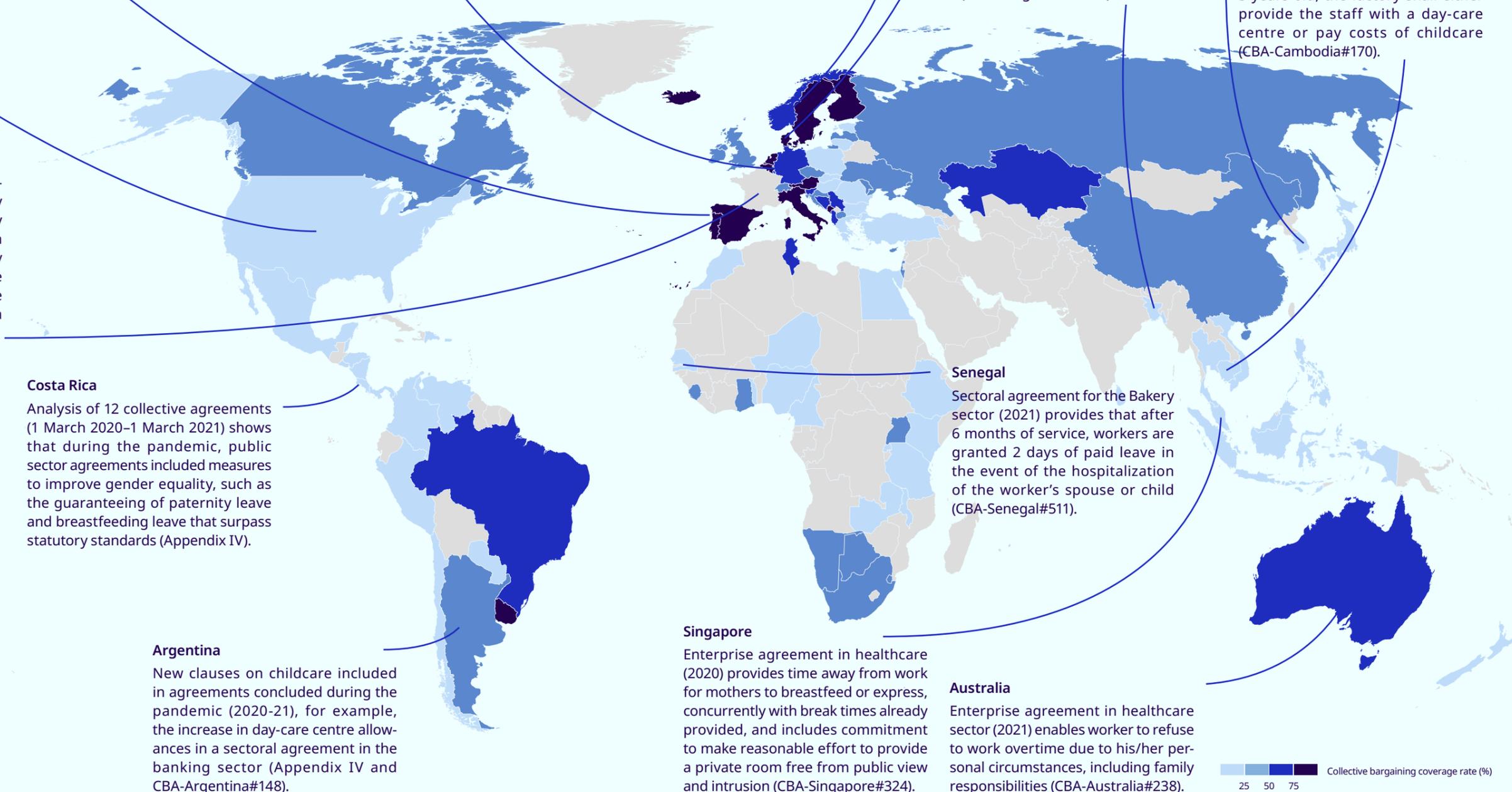
New clauses on childcare included in agreements concluded during the pandemic (2020-21), for example, the increase in day-care centre allowances in a sectoral agreement in the banking sector (Appendix IV and CBA-Argentina#148).

**Singapore**

Enterprise agreement in healthcare (2020) provides time away from work for mothers to breastfeed or express, concurrently with break times already provided, and includes commitment to make reasonable effort to provide a private room free from public view and intrusion (CBA-Singapore#324).

**Australia**

Enterprise agreement in healthcare sector (2021) enables worker to refuse to work overtime due to his/her personal circumstances, including family responsibilities (CBA-Australia#238).



## Box 5.14 (cont'd)

Support with care-related costs	Enhancing access to care-related leave	Integrating care into work organization
<ul style="list-style-type: none"> <li>▶ Provision of care-related allowances</li> <li>▶ Reimbursement for the costs of day care</li> <li>▶ Creation of day-care centres in enterprises</li> </ul>	<ul style="list-style-type: none"> <li>▶ Increase in leave entitlements for workers with young children</li> <li>▶ Increase in leave entitlements for workers with family members with disabilities or chronic diseases</li> <li>▶ Increase in leave entitlements for workers to care for family members who test positive for COVID-19</li> <li>▶ Increase in parental/maternity/paternity leave</li> </ul>	<ul style="list-style-type: none"> <li>▶ Access to flexible work arrangements for workers with care responsibilities</li> <li>▶ Provision of adequate breastfeeding facilities at the workplace and breaks for breastfeeding workers</li> <li>▶ Allowing exemptions from night work, overtime and shift work for workers with care responsibilities</li> </ul>

While less frequent, some agreements provided for changes in work allocation (including functional and geographic mobility) and work organization to enable work-sharing. For example, in the Philippines, enterprise agreements included such measures as the partial closure of some units or departments, a reduction of normal workdays per week or month, job rotation to provide all workers with some work and income during a given working week or month, the transfer of employees to another branch or outlet, and assignment of employees to another function or position.<sup>115</sup>

In some instances, redundancies appeared inevitable. Parties came together to see if they could agree on measures to avoid redundancies, and where this was not possible, negotiated measures to mitigate the effects on workers (see box 5.15). In many countries, the aviation sector faced considerable liquidity problems. Continuous negotiations throughout the period resulted in collective agreements on measures to reduce planned employment reductions. These included savings in personnel costs (wage cuts and reductions in pension fund contributions), longer-term partial activity plans, voluntary mobility and redeployment aid, and severance pay where redundancies could not be avoided.<sup>116</sup>



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<sup>115</sup> Appendix IV.

<sup>116</sup> For example, at the enterprise level (CBA-Australia#197, CBA-France#16, CBA-France#19, CBA-France#21, CBA-France#23, CBA-France#54, CBA-Malta#43, CBA-Malta#44, CBA-Portugal#184). See also Eurofound (2020f) for a similar case in Austria.

► **Box 5.15 Avoiding redundancies in the Hai Phong industrial zone, Viet Nam**

In Viet Nam, collective bargaining takes place predominantly at the enterprise level. In view of the dramatic economic downturn, agreements were reached to avoid redundancies – first, through a gradual reduction of working hours and cuts to allowances and bonuses; second, through job rotation to areas where there was demand; and, third, by putting workers on furlough with minimum pay. Where redundancies could not be avoided, workers would receive severance pay above the statutory minimum.

The following agreements were reached within the Hai Phong industrial zone:

- ▶ Enterprise-level agreement in a producer of travel goods: the company agreed to two months' salary as severance pay and assisted workers in finding new employment. Most workers found new jobs in another industrial zone.
- ▶ Enterprise-level agreement in an electronics producer: the company agreed to pay the basic salary and allowances for furloughed workers.
- ▶ Enterprise-level agreement in an electronics company: reduction of working hours while paying workers 100 per cent of their base salary (without allowances).
- ▶ Enterprise-level agreement in an electronics company: migrant workers who were unable to get to the factory as a result of public health measures were entitled to receive a minimum wage. Migrant workers account for 20 per cent of the company's workforce.
- ▶ Enterprise-level agreements in retail and electronics: migrant workers who were not able to return to the factory were to receive 96 per cent of their base salary (higher than the minimum wage). For those able to return to Hai Phong, the company provided accommodation for workers and their families, or an accommodation allowance in the case of workers who wanted to live outside the company compound.

Source: ILO.

► **Table 5.5 Negotiating short-order flexibility**

Examples of provisions in collective agreements	
<b>Short-order flexibility</b>	<b>Wages</b> <ul style="list-style-type: none"> <li>▶ Wage moderation, postponement of wage negotiations and wage freezes in exchange for employment guarantees</li> <li>▶ Suspension of bonuses</li> <li>▶ Suspension or conversion of variable pay</li> </ul>
	<b>Working time</b> <ul style="list-style-type: none"> <li>▶ Reductions in working time</li> <li>▶ Use of working-time credits and banked hours</li> <li>▶ Use of paid annual leave and other leave entitlements</li> <li>▶ Commitment to make up lost hours of work once activity resumes (crediting banked hours)</li> <li>▶ Support for workers with care responsibilities</li> </ul>
	<b>Functional flexibility</b> <ul style="list-style-type: none"> <li>▶ Functional and geographic mobility</li> </ul>
	<b>Employment security</b> <ul style="list-style-type: none"> <li>▶ Commitment to retain employment</li> <li>▶ Commitment to prevent redundancies or mitigate their effects</li> </ul>

# 5.5

## Shaping future telework and hybrid work practices

Stay-at-home measures and lockdowns throughout 2020 and 2021 accelerated the digitalization of work. The large-scale resort to telework<sup>117</sup> was asymmetrical and closely associated with a country's level of economic development (Hatayama, Viollaz and Winkler 2020). It was more widely adopted in countries with a large proportion of the workforce working in sectors such as professional services, finance and insurance, ICT and public administration (ILO 2020m).

**The massive pandemic-induced adoption of telework is transforming work practices.** Indeed, a number of large enterprises have announced ongoing experimentation with hybrid work models that combine telework and on-site work. These new practices can enhance productivity and reduce costs for employers while providing workers with greater autonomy with regard to the temporal and spatial location of work. However, sustained telework and hybrid work practices can present challenges for the quality of employment, and also for equality and inclusion. Employers may struggle to integrate and effectively involve remote workers in consultation processes. Those working remotely may become disconnected from on-site opportunities to develop skills and experience, and face penalties in terms of work opportunities. A study of a large travel agency in China concluded that, although remote workers were 13 per cent more

productive and put in more hours, they were about 50 per cent less likely to be promoted than their on-site colleagues (Bloom et al. 2015).

Studies have consistently found that while workers save on commuting time, telework results in longer working hours, with work being carried out in the evening and at the weekend, thereby blurring the boundaries between paid work and private life (Fana et al. 2020; Messenger et al. 2017). ICTs have both increased the availability of workers for work outside normal working hours and made it easier for employers to contact workers at any time by phone or email (Messenger et al. 2017). **Collective bargaining can be an important tool in the design of inclusive telework and hybrid work practices, balancing employers' and workers' preferences for flexibility and autonomy on the one hand, and ensuring decent conditions for virtual work on the other.**

This section offers a preliminary assessment of the ways in which collective bargaining is shaping future telework and hybrid work practices in the interests of both employers and workers. The themes addressed include work organization, decent teleworking conditions (working time, OSH, and inclusion) and skills development (see figure 5.12 and table 5.6).

Before the pandemic, the social partners had established broad frameworks to guide regulatory responses, not least through collective agreements. For example, in Europe, the Framework Agreement on Telework (2002) set out broad principles that were subsequently implemented at the national level through a range of measures, including legislation, collective agreements, codes of practice and company policies.<sup>118</sup> **In response to the COVID-19-related shift to remote telework, there has been a marked increase worldwide in legislation on telework** (IOE 2021a; Avogaro 2021). The nature and extent of legislation have varied, with some countries introducing temporary measures (for example, Belgium<sup>119</sup> and San Marino (see Battista 2020)), and others adopting measures of a more permanent nature (for example, Argentina<sup>120</sup> and Mexico<sup>121</sup>). Where telework was already regulated in the pre-pandemic period, modifications were introduced

117 Telework may be defined as “the use of information and communications technologies (ICT), such as smartphones, tablets, laptops and/or desktop computers, for work that is performed outside the employer’s premises” (Messenger et al. 2017, 3).

118 For information on the Framework Agreement, see the Worker Participation website, <https://www.worker-participation.eu/EU-Social-Dialogue/Interprofessional-ESD/Outcomes/Framework-agreements/Framework-agreement-on-telework-2002>.

119 CBA-Belgium#391. **Collective Labour Agreement No. 149 of 26 January 2021, on recommended or mandatory telework due to the coronavirus crisis** (a temporary agreement in effect from 26 January 2021 to 31 December 2021).

120 Argentina, **Act No. 27555, on the legal framework for telework contracts**.

121 Mexico, **Decree amending article 311 of, and adding Chapter XII bis to, the Federal Labour Act, with regard to telework**.

(for example, in Italy<sup>122</sup> and Spain<sup>123</sup>). Interprofessional agreements in Belgium (2021),<sup>124</sup> France (2020)<sup>125</sup> and Luxembourg<sup>126</sup> were signed that laid down principles and protocols for the implementation of telework during the pandemic, thereby supporting the governance of telework by collective agreement. Many countries have incorporated collective bargaining into their regulatory frameworks for telework, confirming the collective rights of teleworkers (for example, in Argentina<sup>127</sup> and Greece<sup>128</sup>), requiring the provision of information (for example, in Chile<sup>129</sup>) and facilitating online communication (for example, in Mexico<sup>130</sup>).

**Tripartite social dialogue and/or consultation with peak-level actors on telework promoted collective bargaining as a regulatory response.** For example, three-month tripartite peak-level negotiations led to the adoption of a Decree-Law on remote work in Spain, which emphasizes, inter

alia, that teleworking arrangements should be voluntary for both enterprises and workers, and that they should be adopted through a written agreement.<sup>131</sup> In Panama, by Executive Decree No. 133 of 16 September 2020, regulatory provisions for a Teleworking Law were approved, in accordance with Law 126 of 19 February 2020. The regulation was subject to consultation and preparation in a Tripartite Table for the Regulation of the Telework Law, created by Resolution DM-194-2020 of 3 July 2020.<sup>132</sup> In the Russian Federation, a law on telework was adopted on 1 January 2021 after tripartite peak-level social dialogue. The law provides, inter alia, for the regulation of teleworking modalities through collective agreements (ILO 2020n). In Luxembourg, an advisory opinion on the right to disconnect was issued in April 2021 by the Economic and Social Council, which pointed to the use of collective agreements (Planet Labor 2020).

► **Figure 5.12 Shaping future telework and hybrid work practices: A thematic analysis of collectively negotiated responses, 2020–21**



## Transitions in work organization

**In many instances, the inclusion of teleworking on the bargaining agenda resulted in temporary provisions to address immediate needs with regard to maintaining social distancing, protecting employment and safeguarding**

**business continuity.<sup>133</sup> This enabled considerable institutional experimentation with collective agreements that has the potential to transform future teleworking practices.** For example, some agreements affirmed the voluntary nature of remote working arrangements.<sup>134</sup> Agreements also dealt with how the equipment

122 Italy, Act No. 27 of 24 April 2020, extending the use of “smart working” in public administrations.

123 Spain, Royal Decree-Law No. 28/2020 of 22 September 2020, on remote working.

124 CBA-Belgium#391.

125 CBA-France#347 (National Interprofessional Agreement of 26 November 2020 for a Successful Implementation of Telework – duration explicitly unspecified).

126 CBA-Luxembourg#150 and Grand-Ducal Regulation of 22 January 2021 declaring the Agreement of 20 October 2020 on the Legal Framework for Teleworking to be of general application (*Journal Officiel* No. 76, 29 January 2021).

127 Argentina, Decree No. 21/2021 approving the implementing regulations for Act No. 27.555.

128 Greece, Act No. 4808/2021, art. 67(10).

129 Chile, Act No. 21220, amending the Labour Code with regard to remote working.

130 Mexico, Decree amending article 311 of, and adding Chapter XII *bis* to, the Federal Labour Act, with regard to telework.

131 Spain, Royal Decree-Law No. 28/2020 of 22 September 2020, on remote working. See Molina (2021).

132 Panama, Executive Decree No. 133 of 16 September 2020.

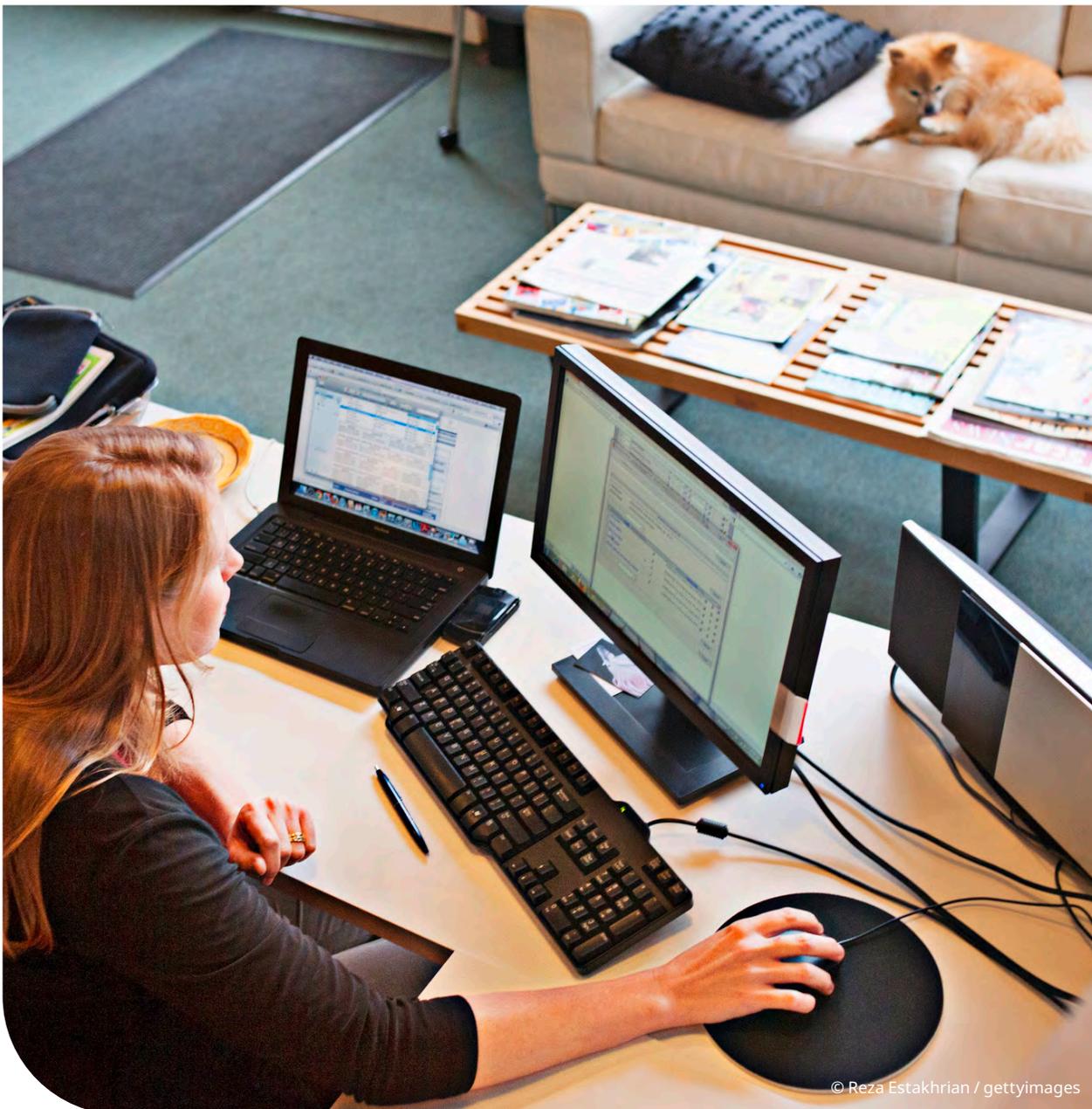
133 For example, at the interprofessional level (CBA-Côte d’Ivoire#140), at the sectoral level (CBA-Germany#26, CBA-Germany#28, CBA-Germany#30, CBA-Ireland#445), at the territorial level (CBA-Brazil#274, CBA-Brazil#280, CBA-Colombia#393) and at the enterprise level (CBA-Chile#223, CBA-Italy#34, CBA-Italy#38).

134 For example, at the sectoral level (CBA-Austria#389) and at the enterprise level in the banking sector (CBA-Colombia#392).

required was to be provided, and stipulated that there should be compensation for the costs incurred by workers.<sup>135</sup> Some addressed cybersecurity and data protection. For example, the interprofessional framework agreement on telework in Belgium (concluded for a limited duration to December 2021) commits the bargaining parties to respect the privacy of teleworkers and provides for protection of the data of both workers and enterprises in telework settings.<sup>136</sup>

## Decent teleworking conditions

A related issue is the way in which agreements re-regulate working time, enhancing workers' control over their work schedules, while fixing hours and days of the week during which workers must be reachable. Agreements affirm rest periods through a right to disconnect.<sup>137</sup> Some also regulate the use of time-control tools.



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<sup>135</sup> For example, at the territorial level (CBA-Spain#433), at the sectoral level (CBA-Spain#326) and at the enterprise level (CBA-France#24, CBA-France#244 and CBA-France#245).

<sup>136</sup> CBA-Belgium#391.

<sup>137</sup> For example, at the interprofessional level (CBA-France#347), at the sectoral level (CBA-Denmark#405, CBA-Lithuania#41, CBA-Spain#326) and at the enterprise level (CBA-Colombia#392, CBA-France#244, CBA-Italy#358, CBA-Spain#425).

For example, the interprofessional framework agreement on teleworking in France (2020) specifies that where monitoring is implemented, the worker must be informed and the monitoring must be both justified and commensurate.<sup>138</sup>

Agreements have also addressed occupational safety and health standards for teleworkers. The interprofessional agreements in Belgium, France and Luxembourg establish frameworks for OSH policies.<sup>139</sup> The agreement in Belgium provides for psychosocial support and counselling by medical experts. The agreement in France refers to the prevention of social isolation while teleworking as one of companies' social responsibilities, and calls for the introduction of ad hoc measures to mobilize all actors at the enterprise level with a view to ensuring that social networks are maintained. The agreement in Luxembourg provides for workers to request an inspection visit and for enterprises to conduct a risk assessment. Similarly, a sectoral agreement in the banking sector in Spain (2021) recommends social "check-ins" and regular contact with the office and colleagues so as to forestall the risks posed by social isolation.<sup>140</sup> At the company level, an agreement in an agricultural cooperative in France provides for the training of supervisors so that they can identify potential psychosocial risks and offer support, and sets out arrangements for workers to receive counselling.<sup>141</sup> Collective agreements at different levels stipulate the obligation of employers to provide adequate equipment, such as screens and ergonomic chairs.<sup>142</sup> Some also make provision for the training of teleworkers to minimize risk and hazards and for teleworking to be adapted to the specific situations of pregnant or breastfeeding women, survivors of domestic violence and workers with disabilities.<sup>143</sup>

**To ensure inclusion and integration, agreements also include specific provisions on equal treatment of on-site and off-site workers in respect of earnings and opportunities for career development.**<sup>144</sup> Some agreements also address labour relations, such as ensuring that trade unions have the right to access teleworkers. For example, in Germany, a sectoral agreement in the rubber industry (2021) grants trade unions the right to access teleworkers online and ensures data protection to prevent union discrimination.<sup>145</sup>

## Skills development

**A number of collective agreements make provision for training to ensure the effective use of remote-working tools as well as the acquisition of digital skills.** For example, an interprofessional agreement in France on telework (2020)<sup>146</sup> notes that the digital skills of managers and employees are essential in the practice of telework, both to facilitate the adoption of remote-working tools and to secure a company's data. It provides for training to be offered on (a) the organization of telework; (b) the autonomy of the teleworking employee; (c) the sequencing of the teleworking day; (d) the legal framework relating to working hours and disconnection (rest); and (e) the use of digital and collaborative tools. The agreement enables access to certification by CléA Digital. An agreement in Spain (2020) that expands the proportion of work that can be done remotely to 60 per cent "to test possible new ways of working in the future" only enables workers to enrol in the pilot scheme if they have completed a dedicated training course.<sup>147</sup>

138 CBA-France#347.

139 CBA-Belgium#391, CBA-France#347 and CBA-Luxembourg#150.

140 CBA-Spain#326.

141 CBA-France#244.

142 For example, at the interprofessional level (CBA-Belgium#391, CBA-France#347), at the sectoral level (CBA-Spain#326) and at the enterprise level (CBA-France#245).

143 For example, at the interprofessional level (CBA-France#347) and at the enterprise level (CBA-Colombia#392, CBA-France#245, CBA-Italy#358).

144 For example, at the interprofessional level (CBA-Luxembourg#150).

145 CBA-Germany#464.

146 CBA-France#3.

147 CBA-Spain#437.

► Table 5.6 Collective agreements: Shaping future telework and hybrid work practices

Selected provisions from collective agreements	
<b>Facilitating transitions in work organization</b>	
<b>Transitions from on-site to remote work</b>	<ul style="list-style-type: none"> <li>▶ Telework to be undertaken on a voluntary basis</li> <li>▶ Workers to have consultation rights on the introduction of hybrid work models</li> <li>▶ Commitment to joint assessment of experimental hybrid work during the pandemic</li> <li>▶ Managers to be responsible for the regular evaluation of team members' workload and capacities</li> <li>▶ Contractual status (such as permanent contracts) not to change as a result of telework</li> </ul>
<b>Communication and integration</b>	<ul style="list-style-type: none"> <li>▶ Telework to apply to apprentices/trainees in a progressive way and students participating in work-study programmes to receive continued guidance by tutor</li> <li>▶ New employees to complete trial period before engaging in telework</li> <li>▶ One or two days each week to be spent on site so as to maintain teamwork</li> </ul>
<b>Digitalization</b>	<ul style="list-style-type: none"> <li>▶ Implementation of video surveillance, digital controls of labour performance, surveillance of emails and/or geolocation should be proportional to the need to verify compliance, and performed in accordance with existing legislation</li> <li>▶ Right to privacy with regard to the recording of calls, sounds and geographic location</li> <li>▶ Workers to expressly give consent to the use of their mobile phone number or private email address by the company</li> <li>▶ Protection of company data used and processed to be ensured and adequate training provided</li> <li>▶ Workers' responsibility to acquire the digital skills needed to secure the company's data and engage in productive telework</li> </ul>
<b>Equipment and costs</b>	<ul style="list-style-type: none"> <li>▶ Monthly reimbursement of general costs associated with hybrid work and telework (that is, connectivity)</li> <li>▶ Employers to directly provide mobile phone, laptop, keyboard, visual display units and so on, and to maintain equipment and necessary programs</li> <li>▶ Workers to ensure that they have high-speed internet connection, compliant electrical installation and reasonable size of workspace needed to telework</li> </ul>
<b>Ensuring decent teleworking conditions</b>	
<b>Working time</b>	<ul style="list-style-type: none"> <li>▶ Employers to determine, in consultation with workers, specific employee working-time windows in which they can be reached</li> <li>▶ Promotion of continuous and uninterrupted work periods to prevent overconnection and low efficiency</li> <li>▶ Workers granted conditional autonomy and control over their own working time (that is, they are to inform their employer of when they can be contacted for work), while also respecting maximum hours and minimum rest time</li> <li>▶ Right to disconnect</li> <li>▶ Employer's commitment not to send emails and conduct calls or meetings outside working hours</li> </ul>
<b>Occupational safety and health</b>	<ul style="list-style-type: none"> <li>▶ Employers' responsibility to inform workers of policy on safety and health in respect of telework</li> <li>▶ Workers' responsibility to respect and comply with measures</li> <li>▶ Provision of psychological assistance to teleworkers by hiring medical experts</li> <li>▶ Supervisors to be trained on how to identify psychosocial risks and symptoms of social isolation</li> <li>▶ Provision of ergonomic visual display units and furniture</li> <li>▶ Training teleworkers to learn how to minimize work-related accidents and musculoskeletal pain and diseases</li> <li>▶ Helpline for workers who are victims of domestic abuse while undertaking remote work</li> </ul>
<b>Labour relations</b>	<ul style="list-style-type: none"> <li>▶ Teleworking employees to enjoy association, consultation and representation rights</li> <li>▶ Trade union representatives to be provided with adequate digital equipment to support teleworkers</li> </ul>
<b>Equality of opportunity and treatment and inclusion</b>	<ul style="list-style-type: none"> <li>▶ Increase in regular contact with the office and colleagues</li> <li>▶ Women and men to have equal access to telework</li> <li>▶ Telework can be used to support workers in relation to their family care responsibilities</li> <li>▶ Telework can be used to integrate employees with disabilities or chronic/progressive/disabling illnesses</li> <li>▶ Teleworkers and on-site workers to be subject to the same evaluation policies</li> </ul>
<b>Promoting skills development</b>	
<b>Training and skills development</b>	<ul style="list-style-type: none"> <li>▶ Workers to acquire digital skills, information security awareness and knowledge of digital productivity</li> <li>▶ Agreement to certification frameworks for digital skills</li> <li>▶ Equal access to training and career development</li> </ul>

*In conclusion, in countries with established traditions of collective bargaining, this has proved to be a responsive regulatory tool, providing employers and workers with procedural certainty in the face of a highly uncertain outlook. The perspectives of EBMOs and trade unions on the role of collective bargaining have been positive on the whole, although some EBMOs were more measured in their assessment. Bargaining priorities shifted to respond to the need of the hour. Collective bargaining enabled some of the trade-offs that were necessary to maintain business continuity, employment and earnings. Whether on the front lines of the battle against the pandemic or during periods in which lockdowns were lifted and many could return to work, collective bargaining helped to unlock the potential of promotional, participatory and protective OSH standards to prevent and control the risk of COVID-19 workplace contagion*

*and ensure the continuity of services. As successive waves of infection placed unrelenting pressure on workers in healthcare and social care, collective bargaining offers an opportunity not only to value, but also to revalue these key services. It can also play an important role in mitigating the effects of the pandemic on inequality, specifically by promoting the inclusion of diverse forms of work and extending protections to women, migrant workers and other vulnerable categories of workers. Finally, since the COVID-19 pandemic has accelerated the digitalization of work, there are also opportunities for collective bargaining to shape the ongoing transformations and secure decent digital work, whether platform-mediated telework or hybrid work. Collective bargaining provides the tools with which to achieve a human-centred recovery that is inclusive, sustainable and resilient.*



The ILO Centenary Declaration for the Future of Work (2019) stresses that:

**“[In] further developing its human-centred approach to the future of work, the ILO must direct its efforts to [...] promoting workers’ rights as a key element for the attainment of inclusive and sustainable growth, with a focus on freedom of association and the effective recognition of the right to collective bargaining as enabling rights” (Part II(A)(vi)).**

The Declaration calls upon governments and employers’ and workers’ organizations, with the support of the ILO, to support that process by, inter alia, “[s]trengthening the institutions of work to ensure adequate protection of all workers” (Part III(B)).

The promotion and realization of freedom of association and the effective recognition of the right to collective bargaining are preconditions for social dialogue. They lay the foundations for employers’ and workers’ organizations to contribute to the effective and inclusive governance of work through collective bargaining. The latter allows both equity and efficiency goals to be pursued simultaneously. By balancing employment relations and tackling asymmetries in labour markets, collective bargaining can go a long way towards addressing distributional issues, whether between employers and workers or between different groups of workers. It can facilitate trade-offs and shape working arrangements that meet the interests of both employers and workers. It offers a unique form of co-regulation, making it possible to tailor the governance of work to the specific circumstances of industries and enterprises. It reinforces compliance, allowing the State to channel scarce labour administration resources into other areas. Moreover, collective bargaining can facilitate just digital and environmental transitions with decent work and help to forge resilience – a key asset for dealing with possible future crises, whether economic, social or environmental. A number of priorities need to be addressed if the full potential of collective bargaining to contribute to a *human-centred recovery that is inclusive, sustainable and resilient* is to be realized.

# 6.1

## Revitalizing employers’ and workers’ organizations

The representative function of employer and business membership organizations (EBMOs) and trade unions – both in terms of membership strength and their capacity to integrate diverse interests – is the bedrock of effective social dialogue. Employers’ and workers’ organizations at different levels play a role in collective bargaining by negotiating agreements, influencing legal and policy frameworks, and providing services to their members. Chapter 4 outlined several challenges faced by EBMOs and trade unions, and explored the ways in which they are transforming themselves so as to offer new services and create an enabling environment for social dialogue, including collective bargaining. During the COVID-19 pandemic, in countries where engagement with and between representatives of employers’ and workers’ organizations was part of the response, social dialogue also proved to be part of the solution.

EBMOs assisted enterprises in managing the economic and social consequences of the pandemic, stepping up their provision of services and engaging in advocacy and social dialogue on behalf of their members. However, the crisis also tested the organizational resilience of EBMOs. Looking forward, EBMOs need to further strengthen their membership recruitment and retention strategies in order to attract a diverse membership, especially from under-represented sectors and types of enterprise. Engagement in evidence-based policy dialogue also requires expertise on major issues affecting labour

1 In line with the Global Call to Action for a Human-Centred Recovery from the COVID-19 Crisis That Is Inclusive, Sustainable and Resilient, adopted by the International Labour Conference at its 109th Session in June 2021, in which governments and employers’ and workers’ organizations committed to “leverage the opportunities of just digital and environmental transitions to advance decent work, inter alia through social dialogue, including collective bargaining and tripartite cooperation”. They also committed to “provide all workers with adequate protection, reinforcing respect for international labour standards, and promoting their ratification, implementation and supervision, with particular attention to areas where serious gaps have been revealed by the crisis. This includes respect for fundamental principles and rights at work [...]” (ILO 2021a).

markets, such as digital transformation, skills mismatches and the high levels of informality in certain parts of the world.

In relation to collective bargaining, EBMOs provide services such as the provision of information (for example, salary surveys), legal advice and representation, the organization of relevant training and assistance in the settlement of industrial disputes. Some EBMOs also engage directly in collective bargaining negotiations with workers' organizations. As this report has shown, the challenges faced by EBMOs engaged in collective bargaining vary considerably. Nevertheless, some common challenges include the varying needs and economic circumstances of their diverse membership base and the heightened economic uncertainty during the pandemic.

Given that less than half of the surveyed peak-level EBMOs (41 per cent) took the view that collective bargaining had had a positive effect on the economic resilience of enterprises during the COVID-19 crisis, it is important to investigate under what circumstances collective bargaining can support improved enterprise performance. Accordingly, **the next *Social Dialogue Report* will focus on the role and impact of "social dialogue in translating economic development into social progress, and social progress into economic development as well as [its impact] on the economic performance and competitiveness of business"** (ILO 2018a, Conclusions, para. 6(a)(ii)).

Trade unions remain key institutions representing and promoting the rights and interests of all workers. They need to continue to demonstrate leadership and prove their relevance and value to current and new members. There is renewed optimism about the contribution that trade unions can make, as evidenced by the increased diversity of union membership, the progress made by women and young people in unions, the rising education levels of union members, and new organizing campaigns and renewal initiatives since 2000. Looking forward, in many countries it will be necessary to enhance the organizational effectiveness of trade unions if they are to provide the essential representational strength required in contemporary labour markets. An ever-greater number of union leaders are recognizing the urgent need for renewal so that unions are able to address the many challenges that lie ahead.

Trade unions have been prominently active in representing a diverse membership in policy debates and at the bargaining table, in tackling the pandemic and driving a human-centred recovery. The research undertaken for this report confirms that, despite the challenges posed by the present crisis, the surge in violations of trade union rights, loss of membership and a hostile environment in some countries, trade unions have stood their ground and taken part in policy debates, collective negotiations and advocacy campaigns to support and protect workers and their jobs around the world.

Social dialogue and collective bargaining remain the primary tools for the effective design and implementation of a robust strategy that can underpin an inclusive, sustainable and resilient recovery. In order to achieve this, trade unions need to strengthen their capacity to analyse and understand the transformations taking place in the world of work; they also need to be able to influence economic, social and sustainable development policies, strengthen their own institutional and organizational processes, and adopt innovative methods, particularly in view of the new context arising from the COVID-19 crisis. Similarly, they need to work with governments and employers' organizations to develop an environment conducive to high-quality, meaningful social dialogue, and to demonstrate their willingness to engage in this process in a spirit of mutual respect so that trust can be deepened.

Given the primacy of collective bargaining, trade unions need to continue to invest in relevant capacity development initiatives, including education and training programmes, to ensure that the lessons learned from the pandemic are firmly embedded in the mechanisms of social dialogue, including collective bargaining. The underlying premise of such programmes is that collective agreements can play a vital role in the inclusive and effective governance of work, and in fostering the resilience needed for societies to overcome similar and new challenges in the future.

# 6.2

## Realizing effective recognition of the right to collective bargaining for all workers

The fundamental principles and rights at work – that is, freedom of association, the effective recognition of the right to collective bargaining, the elimination of discrimination in employment and occupation, and the abolition of child labour elimination and of forced labour – apply to all workers. The ILO supervisory bodies have repeatedly affirmed the universal nature of the principles and rights enshrined in the fundamental international labour Conventions on freedom of association (No. 87) and collective bargaining (No. 98). In view of the transformative changes that are under way in the world of work, driven by technological, demographic and environmental changes, among other factors, it is essential to strengthen the institutions of work to ensure adequate protection for all workers, including the effective recognition of the right to collective bargaining.<sup>2</sup>

Collective bargaining, and the capacity it provides for autonomous co-regulation, can contribute to the inclusive and effective governance of work and to just technological and environmental transitions with decent work. However, this is only possible to the extent afforded under the broader regulatory framework, which encourages and promotes the full development of voluntary collective bargaining. Given the proliferation of diverse forms of work arrangements in recent years, there is a need to review regulatory frameworks at the national level to ensure that they provide legal clarity and certainty so that those in work relations in need of protection are afforded the necessary protections provided for by labour laws and other laws and regulations. This would help to ensure that all workers are guaranteed the effective recognition of the right to bargain collectively, as a fundamental principle and right at work and a human right.

Considerable institutional experimentation is under way in a number of countries with regard to collective bargaining for platform workers. It is clear that collective agreements, once they have been reached, can afford labour protection to these workers while also protecting the interests of enterprises and employers – for example, by ensuring data protection and setting out clear rules and responsibilities. Such institutional experimentation is based on freedom of association and the effective recognition of the right to collective bargaining.<sup>3</sup> As enabling rights, these fundamental principles and rights at work endow platform workers with the institutional capabilities required to secure decent gig work.

<sup>2</sup> The ILO Centenary Declaration for the Future of Work (2019) calls upon all Members of the ILO to further develop its human-centred approach by, inter alia, “[s]trengthening the institutions of work to ensure adequate protection of all workers”, and emphasizes that “[a]ll workers should enjoy adequate protection in accordance with the Decent Work Agenda, taking into account: (i) respect for their fundamental rights; [...]” (ILO 2019b, Part III(B)).

<sup>3</sup> Acknowledging the complexities involved in the platform economy, the International Labour Conference, in its Conclusions concerning the second recurrent discussion on social dialogue and tripartism adopted at its 107th Session, requested the International Labour Office to “continue research regarding the access to freedom of association and the effective recognition of the right to collective bargaining of digital platform and gig economy workers” (ILO 2018a, Conclusions, para. 6(e)).

# 6.3

## Promoting collective bargaining for an inclusive, sustainable and resilient recovery

The ratification and effective implementation of Conventions Nos 87 and 98 establishes the regulatory framework for the effective recognition of the right to collective bargaining. The ILO offers Member States technical assistance in strengthening or revitalizing their regulatory frameworks and collective bargaining institutions and in building the capacity of bargaining parties at all levels. Much of what happens in collective bargaining is and should be decided by the parties. This is certainly true of the scope of their agreements and the level at which they choose to bargain. Collective bargaining nevertheless takes place within, and is facilitated by, a regulatory framework established by the State. At the same time, interference by the State in the negotiation process is not compatible with free and voluntary collective bargaining, and undermines the potential contribution of the latter to the inclusive and effective governance of work.

The Tripartite Consultation (International Labour Conventions) Convention, 1976 (No. 144), and the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152), emphasize the importance of tripartite consultations in relation to “the preparation and implementation of legislative or other measures to give effect to international labour Conventions and Recommendations” (Recommendation No. 152, Para. 5(c)). In addition, the Collective Bargaining Recommendation, 1981 (No. 163), provides guidance on means of promoting collective bargaining, including, in countries with multi-level bargaining, adequate coordination among

these levels; the provision of training for negotiators from employers’ and workers’ organizations; access to relevant information; and procedures for the resolution of disputes.

An effective regulatory framework promotes collective bargaining by autonomous parties, which act in good faith with the objective of reaching a collective agreement that can contribute to the governance of work. These regulatory resources reduce the need for government intervention in the labour market. It is often more effective for employers’ and workers’ organizations to agree on working conditions among themselves than for state agencies, courts and tribunals to prescribe those conditions. As this report has shown, collective agreements can provide enterprises and workers with the capacity for “regulated flexibility” in respect of working time. As a regulatory technique, collective bargaining may also be effective in securing compliance with both jointly agreed and statutory rules. Enabling and encouraging the parties to negotiate and co-regulate conditions of work can also catalyse processes of institutional learning and, in some instances, lead to the development of innovative regulatory solutions. As emphasized in Chapter 2, depending on the institutional setting for collective bargaining (that is, whether it takes place on a single- or multi-employer basis), the manner in which collective agreements are applied and their content, such bargaining can also contribute to the inclusive governance of work.

As has been observed throughout the COVID-19 crisis, in sectors and enterprises with well-established practices, collective bargaining has served as a highly responsive form of regulation. Procedures for collective bargaining have been adapted, shorter agreements negotiated in some instances, and negotiations and renewals postponed in others. Parties have also made use of the various adaptability provisions in collective agreements to facilitate regulatory responsiveness. Through collective bargaining, employers, employers’ organizations and trade unions have been able to jointly address the risk of COVID-19 workplace contagion, ensure the continuity of key services and value the work of those who served on the front lines of the battle against the pandemic. Collective bargaining has also been used to design and implement employment retention measures and negotiate the rapid and short-term flexibility needed to prevent bankruptcies and protect employment and earnings (see Chapter 5). In many cases, institutional learning from previous crises has facilitated the rapid expansion and implementation of these measures. The collective actions of workers and managers and their solidarity with vulnerable

workers, whether low-paid or in insecure forms of work, has also helped to bring about inclusive outcomes. Some parties are drawing on the lessons learned from their experimentation with COVID-19-related telework to agree on frameworks for decent telework and to shape hybrid working practices in the interests of both employers and workers.

This report has pointed out some of the opportunities that lie ahead as parties come to the bargaining table to agree on arrangements to address inequality and eliminate discrimination, ensure economic security, facilitate a just transition, achieve working-time flexibility, improve the work–life balance, pursue a transformative agenda for gender equality, and promote sustainable enterprises (see Chapter 3). Collective bargaining can help to ensure that workers are able to secure for themselves a fair share of productivity gains, which in turn increases their commitment to the productive sustainability of enterprises. Enterprises may in turn make commitments to invest in skills, knowing that they can retain a committed workforce. In this sense, the analysis of specific collective agreements in this report has brought us closer to understanding how the social partners can pursue equity and efficiency gains simultaneously.

## 6.4

### Investing in peak-level bipartite and tripartite social dialogue

The role of the social partners in shaping policy through peak-level social dialogue, also referred to as “policy concertation”, has been shown to enhance the effectiveness of governance during crises (Avdagic, Rhodes and Visser 2011; Lee 1998;

Ebbinghaus and Weishaupt 2021). Policy concertation contributes to both the effectiveness and legitimacy of policy measures, which in turn facilitates their rapid implementation (Guardiancich and Molina 2021). It can also prevent disputes and costly delays in policy implementation that may otherwise result from protests and social instability (Rodrik 1997). By facilitating consensus on the direction of the measures adopted by the State, tripartite and bipartite cooperation and dialogue provide a normative framework for the subsequent efforts of the bargaining parties to negotiate solutions to a crisis (see, for example, Glassner and Keune 2012; Grawitzky 2011). Conversely, a lack of peak-level social dialogue during a crisis may constitute a serious challenge to the promotion of a sustainable and employment-rich recovery, lead to social instability and potentially have long-term impacts on social cohesion (see, for example, Papadakis and Ghellab 2014).

In examining how collective bargaining has helped to forge resilience, this report has also highlighted the role played by the tripartite actors in creating the policy and institutional environment necessary for the parties to freely craft negotiated solutions (see Chapter 5). This included the shaping of emergency response plans (for example, in Côte d’Ivoire, South Africa and Sri Lanka); the adoption of health protocols and/or recognition of COVID-19 as an occupational disease (for example, in Colombia, Ireland, Italy, the Philippines, South Africa and Uruguay); the extension and implementation of employment retention measures, not least through collective bargaining (for example, in Argentina, Austria, Belgium, Germany, Luxembourg, the Netherlands, South Africa and Sweden); and arrangements for teleworking in the short and medium term (for example, in Belgium, France, Italy, Luxembourg and Spain). In some countries, what appeared to be a resurgence of social concertation in 2020 slowed down when key industrial relations actors withdrew their support (for example, in the Republic of Korea and in Trinidad and Tobago). Effective and inclusive social dialogue requires continued engagement on social and economic policy with and between peak-level industrial relations actors both in good times and during crises. Investment in peak-level social dialogue, both bipartite and tripartite, can provide countries with the institutional means to ensure a human-centred recovery.

# 6.5

## Reinforcing social dialogue for the achievement of the SDGs

Social dialogue, including collective bargaining, can contribute to the implementation of the 2030 Agenda for Sustainable Development. While social dialogue is clearly vital for attaining Goal 8 (on decent work and economic growth), by virtue of the unique role it plays in the inclusive and effective governance of work, it can also support other SDGs (ILO 2019e) (see figure 6.1). In particular, social dialogue can contribute to

achieving good health and well-being (Goal 3); quality education (Goal 4); gender equality (Goal 5); reducing inequality (Goal 10); building peace, justice and strong institutions (Goal 16); partnerships for sustainable development (Goal 17); and environmental protection (Goals 6, 7 and 13). Realization of some of the SDGs – notably, promoting peaceful and inclusive societies, providing access to justice for all and building effective, accountable and inclusive institutions at all levels (Goal 16) – is in turn essential for effective social dialogue. Employers’ and workers’ organizations play a critical role in this regard. They provide agency and give a voice to groups directly affected by policies – for example, when it comes to young people, they can help to shape much-needed policies for improving access to training and employment opportunities (UN 2021c). Social dialogue involving employers’ and workers’ organizations is also key to facilitating the assessment of progress at the country level through the voluntary national reviews and to the shaping of policies relevant to the achievement of the SDGs (Papadakis and Cauqui, forthcoming). However, all this relies on the realization of the fundamental principles of freedom of association and the effective recognition of the right to collective bargaining.

► Figure 6.1 Social dialogue and the SDGs



*In conclusion, as countries begin to lift public health restrictions, it is essential to unlock the full potential of employers’ and workers’ organizations and to strengthen social dialogue and collective bargaining. A human-centred recovery implies that employers and workers have a voice in the decisions affecting them and can play a role in shaping the future of work. Rather than hindering adjustment, collective bargaining can adapt and respond to changing conditions, and in the face of uncertainty it can provide the parties with a degree*

*of procedural and substantive certainty. This can be a valuable source of stability. It can also facilitate the transformation of work processes in support of an inclusive, sustainable and resilient recovery. As in the past, the institutional resilience provided by collective bargaining can help in preparing for possible future crises – whether related to climate change or social or economic events – while supporting the pursuit of decent work. As the report finds, this contribution depends on the support given to collective bargaining.*

# ▶ Appendices

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▶ **Appendix I:**  
Indicators of the legal framework for the application of collective agreements

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Coding and textual analysis of collective agreements

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▶ **Appendix VI:**  
Methodology for Better Work assessment of OSH compliance during the COVID-19 pandemic

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# Appendix I: Indicators of the legal framework for the application of collective agreements

A set of legal framework indicators were developed for the analysis of the application of collective agreements in this report. The indicators are based on the coding of primary and secondary legal sources for 125 countries (see table A1).

The choice of indicators was based on consideration of how collective bargaining contributes to the inclusive and effective governance of work. The focus was on the legal and regulatory features that shape both the regulatory coverage and the responsiveness of collective agreements. The following five features of the national legal and institutional framework for the application of collective agreements were examined:

- ▶ applicability of collective agreements (that is, whether they have *erga omnes* applicability or are applicable to members of the signatory parties only);
- ▶ the extension of collective agreements to all enterprises that fall within the scope of a collective agreement, including those that may not be members of the signatory employers' organization;
- ▶ the principle of favourability establishing a hierarchical order among different sources of law and among collective agreements at different levels;
- ▶ derogations from the law – which should be targeted (that is, cover specific aspects of conditions of work) and be applied only in a circumscribed and reasoned manner – and the possibility of a lower-level collective agreement to deviate from a higher-level agreement through (a) derogation clauses; or (b) opt-out/hardship clauses; and
- ▶ the duration of agreements (and the possibility of ultra-activity or retroactivity).

These features were classified under subcategories pertinent to understanding the application of collective agreements in accordance with relevant ILO principles (see Chapter 2, box 2.1). Various existing databases on industrial relations were consulted (for example, the OECD/AIAS

ICTWSS database<sup>1</sup> and the original ICTWSS database<sup>2</sup>) to benchmark these subcategories against existing industrial relations classifications.

The set of legal framework indicators was constructed by coding primary and secondary sources and assigning equally weighted numerical scores to the coding from a predefined range for each of the subcategories. The sources used were as follows:

- ▶ ILO Legal Database on Industrial Relations (IRLex);
- ▶ Central and Eastern European Labour Legislation Database (CEELEX);
- ▶ *International Encyclopaedia for Labour Law and Industrial Relations*;
- ▶ national labour laws (mainly labour codes and industrial relations acts – with limited access to lower-level regulations and/or implementing regulations); and
- ▶ other sources, such as secondary literature and existing legal analysis.

A questionnaire was designed to collect relevant data from IRLex, which were verified through triangulation with other sources as listed above. The data were also verified by technical specialists at ILO country offices where possible.

The indicators reflect the legal and regulatory features of the application of collective agreements in law, not in practice. Coded information on legal application is complemented by information on effective application, including, where relevant, the content of collective agreements. Comments of the ILO supervisory bodies were also considered when evaluating practice.

The methodology and coding protocol were developed on the basis of common standards of construct validity, reliability and transparency. The method was validated by an external evaluator with experience in the construction of legal indicators. The coding was carried out by a small team of coders who worked simultaneously to ensure impartiality. In ambiguous cases, external

1 OECD/AIAS database on Institutional Characteristics of Trade Unions, Wage Setting, State Intervention and Social Pacts, hosted on the OECD website: [www.oecd.org/employment/ictwss-database.htm](http://www.oecd.org/employment/ictwss-database.htm).

2 Jelle Visser, ICTWSS database, version 6.1 (November 2019), <https://www.ictwss.org/downloads>.

legal and/or industrial relations experts were consulted.

The legal framework indicators reflect a single point in time: they cover laws that were in effect at the time of analysis. The report included a

time-based examination of a limited set of countries, in cases where labour law reforms had recently been adopted (for example, Brazil, the Republic of Korea and Viet Nam).

► **Table A1 Countries by region**

<b>Africa</b>	<b>Americas</b>	<b>Asia and the Pacific</b>	<b>Europe and Central Asia</b>
Algeria	Argentina	Australia	Hungary
Angola	Belize	Bangladesh	Iceland
Botswana	Bolivia (Plurinational State of)	Cambodia	Ireland
Burkina Faso	Brazil	China	Israel
Cameroon	Canada	Fiji	Italy
Côte d'Ivoire	Chile	India	Kazakhstan
Democratic Republic of the Congo	Colombia	Indonesia	Latvia
Egypt	Costa Rica	Japan	Lithuania
Eswatini	Cuba	Malaysia	Luxembourg
Ethiopia	Dominican Republic	Myanmar	Malta
Gabon	Ecuador	Nepal	Montenegro
Ghana	El Salvador	New Zealand	Netherlands
Kenya	Guatemala	Philippines	North Macedonia
Lesotho	Honduras	Republic of Korea	Norway
Madagascar	Mexico	Samoa	Poland
Malawi	Nicaragua	Singapore	Portugal
Mauritania	Panama	Sri Lanka	Republic of Moldova
Mauritius	Paraguay	Thailand	Romania
Morocco	Peru	Viet Nam	Russian Federation
Mozambique	Saint Vincent and the Grenadines		Serbia
Namibia	Trinidad and Tobago	<b>Europe and Central Asia</b>	Slovakia
Niger	United States of America	Albania	Slovenia
Nigeria	Uruguay	Armenia	Spain
Rwanda	Venezuela (Bolivarian Republic of)	Austria	Sweden
Sao Tome and Principe		Belgium	Switzerland
Senegal	<b>Arab States</b>	Bosnia and Herzegovina	Turkey
Seychelles	Iraq	Bulgaria	Ukraine
Sierra Leone	Jordan	Croatia	United Kingdom of Great Britain and Northern Ireland
Somalia	Lebanon	Cyprus	
South Africa		Czechia	
Togo		Denmark	
Tunisia		Estonia	
Uganda		Finland	
United Republic of Tanzania		France	
Zambia		Germany	
Zimbabwe		Greece	

## Appendix II: Trade union density and collective bargaining coverage

### Trade union density

To produce indicators related to trade union membership, data on the number of employed persons who currently belong to a trade union were collected from two sources:

- ▶ household or labour force surveys; and
- ▶ administrative data of the unions.

**Survey data** have the advantage that they are matched to employment data, though they may fail to capture own-account workers, small firms, the unemployed and particular sectors, depending on the sampling strategy, and there may be sample errors. Membership data-based surveys from national statistical offices are available for only a few countries.

**Administrative data** based on union records are collected from the national registrar, the national statistical offices, the labour ministry, the national union confederations or research institutions. For the purposes of comparison, administrative data need to be corrected for members who are no longer active in the labour market (retired workers) and the unemployed. Careful scrutiny is also required to correct such data for double counting, non-paying members and overstatement or understatement of current membership. For the purposes of collecting membership statistics, a “trade union” is defined as a workers’ organization constituted with the aim of furthering and defending the interests of workers.

On the basis of the membership data, two density rates have been calculated: one based on “employees”, and a second based on the general category of “workers” (employees and own-account workers). The latter group includes freelancers and other self-employed workers who do not engage employees. It does not include contributing family workers and members of producers’ cooperatives. The data on the total number of employed persons by status in employment (that is, employees and self-employed workers) and by sex were taken from ILOSTAT and used as the reference population to calculate the rates. Where possible, labour force survey data have been used. For years and categories not covered by a survey, estimates were calculated on the basis of indices derived from the ILOSTAT data on “employment by status”.

An employees-weighted average of the union density rate was computed on the basis of a sample of 140 countries for which union membership data are available up to the year 2019.

### Collective bargaining coverage

To produce indicators of collective bargaining coverage, data on the number of employed persons whose working conditions are determined by one or more collective agreements currently in force (including those workers covered by extension provisions) were collected.

There are three sources for these data: administrative registers, kept by labour administration bodies; labour force and other household surveys compiled by national statistical offices; and establishment surveys compiled by labour ministries or national statistical offices.

The ILO uses three primary channels for the collection of data on coverage by collective agreements:

- ▶ the annual ILOSTAT questionnaire, which is sent by the Department of Statistics to all Member States (one of the tabs, or sub-questionnaires, requests data on coverage by collective agreements);
- ▶ microdata from labour force and other household surveys that the Department of Statistics collects from national statistical offices around the world; and
- ▶ special enquiries in particular countries conducted by national experts.

Data on the total number of employed persons, disaggregated by status in employment (that is, employees and self-employed workers) and by sex were taken from ILOSTAT and used as the reference population to calculate the rates. Methodological adjustments were made to the reference group of employees, where relevant, when calculating the rate – for example, including self-employed workers covered by collective agreements, such as “wage freelancers”, and excluding employees who in some national contexts do not enjoy the right to bargain (such as members of the armed forces and police). The coverage rate was then calculated as the number of employees covered by a collective agreement divided by all employees (as adjusted).

It is important to note that in some countries (especially developing economies) paid employment is not the norm: categories of self-employed workers, such as own-account workers and contributing family workers, make up a significant share of total employment and this should be taken into account when interpreting the collective bargaining coverage rate for such countries.

An employees-weighted average of the collective bargaining coverage rate was computed on the

basis of a sample of 98 countries for which collective bargaining coverage data are available up to the year 2020. This takes into account the total number of employees in different countries to reflect the country's size. The unadjusted global employees-weighted average at the point in time  $t$  was obtained by dividing the sum of the number of employees covered in country  $j$  by the sum of the number of employees in country  $j$ , both at the point in time  $t$ .

► **Table A2 List of country codes used in Chapter 2, figure 2.8**

Country	ISO 3166 code	Country	ISO 3166 code	Country	ISO 3166 code
Albania	ALB	Ghana	GHA	Poland	POL
Argentina	ARG	Greece	GRC	Portugal	PRT
Armenia	ARM	Honduras	HND	Republic of Korea	KOR
Australia	AUS	Hungary	HUN	Republic of Moldova	MDA
Austria	AUT	Iceland	ISL	Romania	ROU
Bangladesh	BGD	Indonesia	IDN	Russian Federation	RUS
Belgium	BEL	Ireland	IRL	Rwanda	RWA
Belize	BLZ	Israel	ISR	Saint Vincent and the Grenadines	VCT
Bosnia and Herzegovina	BIH	Italy	ITA	Senegal	SEN
Botswana	BWA	Japan	JPN	Serbia	SRB
Brazil	BRA	Kenya	KEN	Singapore	SGP
Bulgaria	BGR	Latvia	LVA	Slovakia	SVK
Cambodia	KHM	Lithuania	LTU	Slovenia	SVN
Cameroon	CMR	Luxembourg	LUX	South Africa	ZAF
Canada	CAN	Malawi	MWI	Spain	ESP
Chile	CHL	Malaysia	MYS	Sri Lanka	LKA
Colombia	COL	Malta	MLT	Sweden	SWE
Costa Rica	CRI	Mauritius	MUS	Switzerland	CHE
Croatia	HRV	Mexico	MEX	Thailand	THA
Cyprus	CYP	Montenegro	MNE	Togo	TGO
Czechia	CZE	Morocco	MAR	Trinidad and Tobago	TTO
Denmark	DNK	Namibia	NAM	Tunisia	TUN
Dominican Republic	DOM	Netherlands	NLD	Turkey	TUR
Egypt	EGY	New Zealand	NZL	Uganda	UGA
El Salvador	SLV	Nicaragua	NIC	Ukraine	UKR
Estonia	EST	North Macedonia	NFK	United Kingdom	GBR
Eswatini	SWZ	Norway	NOR	United States	USA
Ethiopia	ETH	Panama	PAN	Uruguay	URY
Finland	FIN	Paraguay	PRY	Venezuela (Bolivarian Republic of)	VEN
France	FRA	Peru	PER	Viet Nam	VNM
Germany	DEU	Philippines	PHL	Zambia	ZMB

**Note:** Figure 2.8 includes data for 93 countries for which credible information was available on both collective bargaining coverage and the level of collective bargaining.

## Appendix III: Survey of EBMOs

An online survey of peak-level interprofessional EBMOs was conducted between April and May 2021 on the topic of collective bargaining. The survey was sent to 221 peak-level EBMOs in 185 ILO Member States and 5 non-metropolitan territories. In all countries and territories, this included the most representative organizations of employers, that is, those which are recognized as such for the purposes of article 3 of the ILO Constitution. A number of other key peak-level EBMOs registered in the database of the ILO Bureau for Employers' Activities were also included. Organizations representing specific groups, such as sectoral, regional or provincial associations, were not directly involved in the survey.

The online survey consisted of two parts:

- ▶ Part 1 dealt with the role that the peak-level EBMO and its affiliated/member associations (for example, sectoral organizations and/or subnational territorial organizations) play in collective bargaining. It included questions about the direct involvement of the peak-level EBMO in collective bargaining; the direct involvement of the affiliated/member associations in collective bargaining; the level at which such collective bargaining had taken place (as well as the predominant level of collective bargaining); the assistance provided to members on collective bargaining issues; the barriers or difficulties experienced by the EBMO in collective bargaining; and perceptions regarding the importance of collective bargaining issues for the EBMO in the future.
- ▶ Part 2 dealt with collective bargaining in the context of the COVID-19 pandemic. It included questions about the impact of collective bargaining on economic resilience during the crisis, and the impact of the crisis on collective bargaining.

The survey included between 11 and 17 questions (follow-on questions). The questions were a mix of single selection, multiple choice and matrix questions. Depending on the answers provided, a few open-ended questions gave respondents the opportunity to elaborate on their response in a comment box.

Responses were received from 70 EBMOs in 70 countries across 5 regions: Africa (18.6 per cent), the Americas (20.0 per cent), the Arab States (1.4 per cent), Asia and the Pacific (31.4 per cent), and Europe (28.6 per cent).

The survey was available in English, French and Spanish. Responses to the survey were anonymous. The responses were registered and analysed using the Qualtrics survey tool.

## Appendix IV: National studies of collective bargaining, case studies on front-line workers and interviews

### National studies of collective bargaining

The *Social Dialogue Report 2022* is supported by national studies of collective bargaining, commissioned by national experts for 21 countries across the different regions (see table A3).

### Selection of countries covered by the national studies

The selection of the countries for national studies of collective bargaining was made with a view to ensuring a mix of regions, levels of economic development and collective bargaining systems. National experts were selected on the basis of their expertise, in consultation with the ILO Bureaux for Employers' and Workers' Activities.

► Table A3 List of national studies and national experts

Region	Country	Level of economic development	Predominant level(s) of collective bargaining	National expert
Africa	Côte d'Ivoire	Lower-middle income	Sectoral	Mr Alla Pierre Bosson
	South Africa	Upper-middle income	Sectoral	Dr Shane Godfrey Mr Mario Jacobs
	Tunisia	Lower-middle income	Interprofessional (some sectoral)	Prof. Rim Mouelhi
Americas	Argentina	Upper-middle income	Sectoral	Dr Cecilia Senén González Dr Bárbara Medwid
	Brazil	Upper-middle income	Territorial and occupational	Dr Adalberto Cardoso
	Colombia	Upper-middle income	Enterprise	Dr María Clara Jaramillo
	Costa Rica	Upper-middle income	Enterprise	Dr Alexander Godínez Vargas
	Trinidad and Tobago	High income	Enterprise	Mr Darrin G. Dookie
Asia and the Pacific	Philippines	Lower-middle income	Enterprise	Prof. Melisa Serrano
	Republic of Korea	High income	Enterprise with an increase in sectoral bargaining	Dr June Namgoong
	Sri Lanka	Lower-middle income	Enterprise	Dr Shyamali Ranaraja
	Viet Nam	Lower-middle income	Enterprise	Dr Do Quynh Chi

Europe and Central Asia	Belgium	High income	Interprofessional and sectoral	Prof. Oscar Molina
	Georgia	Upper-middle income	Enterprise	Dr Ana Diakonidze
	Germany	High income	Sectoral	Prof. Roberto Pedersini
	Italy	High income	Sectoral and decentralized (territorial or enterprise)	Prof. Roberto Pedersini
	Serbia	Upper-middle income	Mixed: sectoral level in some sectors, enterprise level in others	Prof. Bojan Urdarević
	Slovakia	High income	Mixed: sectoral level in some sectors, enterprise level in others	Prof. Roberto Pedersini
	Spain	High income	Sectoral and territorial (provincial)	Prof. Oscar Molina
	Sweden	High income	Sectoral	Prof. Roberto Pedersini
	United Kingdom	High income	Enterprise	Prof. Oscar Molina

### Methodology for the national studies

Each of the national studies followed the same methodology, adjusted to the particular national context (for example, whether bargaining took place at a sectoral or enterprise level) to ensure comparability between the studies. The studies applied a mixed methods approach, combining:

- ▶ Secondary analysis of existing literature, media (pertaining to the COVID-19 pandemic) and quantitative data.
- ▶ Analysis of a sample of collective agreements from selected sectors and/or enterprises in particular sectors. The sectors and enterprises were identified on the basis of an analysis of the most significant sectors of the economy, enterprise size (small, medium, large) and ownership structure (private/public, domestic/foreign). Practical considerations, such as the availability of collective agreements, also informed the sampling strategy.
- ▶ Interviews with key informants (local, regional and national trade union representatives, employers and representatives of employers' organizations, experts and other relevant actors).

The national studies benefited from comments and feedback by the research team and by ILO technical experts in the regions. Requests for clarification, additional information and/or additional interviews with either employers or trade unions to triangulate findings were taken into account to ensure the quality of the studies.

### Key research questions addressed in the national studies

- ▶ What are the key institutional features of industrial relations and collective bargaining in the country and have there been any significant changes to collective bargaining during the past decade?
- ▶ What do collective agreements typically regulate (for example, wages, working conditions and other aspects) and how do agreements shape the outcomes of collective bargaining within a particular regulatory framework and labour market context?
- ▶ What role did collective bargaining play in shaping responses to the COVID-19 pandemic?
  - ▶ Were there any notable changes in negotiating procedures and practices? What factors either supported or undermined collective bargaining during the pandemic?
  - ▶ Did the bargaining agenda change during the pandemic and, if so, how?
  - ▶ What role, if any, did collective bargaining play in protecting workers from COVID-19 workplace contagion and ensuring the continuity of services?
  - ▶ What role, if any, did collective bargaining play in ensuring business continuity, saving jobs and preserving earnings?
  - ▶ Has collective bargaining contributed to inclusive labour protection, and, if so, how?
  - ▶ Were the (recent) agreements of an ad hoc nature, or are they leading to longer-term changes (for example, as regards policies on telework or working time and family care responsibilities)?

## Case studies on front-line workers

The *Social Dialogue Report 2022* is supported by case studies of potential collective bargaining in relation to front-line workers conducted by international experts, in three sectors in different countries (see table A4).

### Selection of case studies

Three sectors were selected for case studies of social dialogue and collective bargaining in relation to front-line workers: the healthcare sector, the social care sector and the food retail sector. These sectors have a high proportion of low-wage workers and female employment, as well as high exposure to COVID-19.

A broad selection of potential case studies was made from countries in which workers were likely to engage in collective bargaining. This was followed by a shortlist on the basis of geographic distribution, reasonable access to key informants, and the criterion of ensuring a mix of collective bargaining systems and other wage-setting arrangements.

#### ▶ Table A4 Case studies on collective bargaining and front-line workers in the healthcare, social care and food retail sectors during the COVID-19 pandemic

Case studies (2021)	Experts
<b>Healthcare:</b> <ul style="list-style-type: none"> <li>• Case study 1 (Ireland)</li> <li>• Case study 2 (Portugal)</li> <li>• Case study 3 (Kenya)</li> <li>• Case study 4 (Slovakia)</li> </ul>	Prof. Jill Rubery Dr Isabel Távora Ms Abbie Winton Ms Eva Herman Mr Alejandro Castillo
<b>Social care:</b> <ul style="list-style-type: none"> <li>• Case study 1 (United Kingdom (Scotland))</li> <li>• Case study 2 (New Zealand)</li> <li>• Case study 3 (Norway)</li> </ul>	
<b>Retail:</b> <ul style="list-style-type: none"> <li>• Case study 1 (United Kingdom)</li> <li>• Case study 2 (Canada)</li> <li>• Case study 3 (Chile)</li> <li>• Case study 4 (Hungary)</li> </ul>	

### Methodology for the case studies

The research was based on:

- ▶ secondary analysis of existing literature, media reports and other available data sources;
- ▶ collective agreements where these were available, or secondary sources; and

- ▶ interviews with key informants (local, sectoral and national trade union representatives, employer representatives, experts and other relevant actors).

The information gathered was validated through the consultation of various sources. The interviews were used both to collect information and to complement other sources. In many instances, interviewees provided documents that were used as further confirmatory data and evidence. Case studies were used to highlight good practices.

### Research questions for the case studies

- ▶ How did COVID-19 affect the work and working conditions of front-line workers?
- ▶ What role, if any, did collective bargaining play in protecting workers, supporting the continuity of services and revaluing the work of low-wage workers?
- ▶ What innovative or good practices were observed? Which factors supported good practices?

## ILO interviews with key informants in Australia and Canada

To gain a better understanding of the collective agreements in Australia and Canada in the sample analysed (see Appendix V), interviews were organized with key informants (see table A5). The interviews were conducted online between May and September 2021 and followed a predetermined set of semi-structured interview questions on developments in collective bargaining. The interviews were transcribed and analysed by the research team.

#### ▶ Table A5 Interviews with key informants conducted by the ILO

Country	Interviewee	Date of interview
Australia	Representatives of peak-level trade union	6 September 2021
Australia	Representative of the Fair Work Commission	24 May 2021
Canada	Representatives of peak-level employers' organization	18 June 2021
Canada	Representatives of peak-level trade union	30 August 2021

## Appendix V: Coding and textual analysis of collective agreements

A sample of 512 collective agreements valid during the 2020–21 period were analysed (see table A6).

### Sources and sampling of collective agreements

In many countries, collective agreements are difficult to access and/or are confidential documents. Four strategies were adopted to source collective agreements that were in force during the period March 2021–December 2021. First, specialists in the ILO’s Decent Work Teams in the regions obtained the texts of collective agreements from ILO constituents directly. To support this, a decision was taken that, so far as possible, the names of the bargaining parties would not be reported and, where requested, they would be redacted from the documents analysed. Second, all ILO offices submitted information on key collective agreements to the ILO’s database of country policy responses to the COVID-19 crisis.<sup>3</sup> Third, responses to the “General Survey on securing decent work for nursing personnel and domestic workers, key actors in the care economy” conducted for the preparation of the [Report of the Committee of Experts on the Application of Conventions and Recommendations](#) (International Labour Conference, 110th Session, 2022) were reviewed and collective agreements identified. Finally, a small research team drew on available online sources or public databases to either obtain copies of publicly available collective agreements (primary sources) or combine secondary sources. These online sources included:

- ▶ national repositories of collective agreements maintained by the labour administration bodies;
- ▶ databases of collective agreements maintained by trade unions;

- ▶ databases of collective agreements maintained by research institutions;
- ▶ official gazettes and legal publications;
- ▶ Eurofound’s COVID-19 EU PolicyWatch database;<sup>4</sup>
- ▶ Planet Labor website;<sup>5</sup>
- ▶ IR Share website;<sup>6</sup>
- ▶ web pages and documents of the International Trade Union Confederation, and global, regional, national and sectoral unions (confederations and federations);
- ▶ web pages and documents of the International Organisation of Employers and national and sectoral employers’ organizations; and
- ▶ media articles, news, blogs, newsletters and other online information.

Although the analysis relied on primary sources (original texts of collective agreements), these were not always available. In such cases, secondary sources were used. Additional sources were examined either to verify and ensure independent reporting of content or to gather more detailed information on the collective agreement to be analysed (see tables A6 and A7). This approach addressed some of the methodological drawbacks (such as possible bias of sources) and made it possible to analyse the scope of collective agreements in some under-represented regions or in cases where it was not possible to obtain the primary source.

The sample of collective agreements was obtained using non-probability sampling techniques, suitable for research contexts where randomization is not possible and the total population is very large.<sup>7</sup> A purposive sampling approach<sup>8</sup> was adopted to ensure the construction of a sample with agreements from different regions, from countries with different levels of collective bargaining and covering a variety of sectors of the

3 See the ILO repository of country policy responses to COVID-19 at: <https://www.ilo.org/global/topics/coronavirus/regional-country/country-responses/lang--en/index.htm>.

4 See the COVID-19 EU PolicyWatch website, <https://static.eurofound.europa.eu/covid19db/database.html>.

5 See the Planet Labor website, <https://www.planetlabor.com/en/>.

6 See the IR Share (Industrial Relations Share) website, <http://www.irshare.eu/en/>.

7 Ilker Etikan, Sulaiman Abubakar Musa and Rukayya Sunusi Alkassim, “Comparison of Convenience Sampling and Purposive Sampling”, *American Journal of Theoretical and Applied Statistics* 5, No. 1 (2016): 1–4.

8 The actual number of collective agreements that were applicable around the world in 2020 and 2021 is unknown and would be difficult to estimate in order to generate a representational sample.

economy. As the emphasis of purposive sampling is on saturation and the identification of patterns, this technique was particularly appropriate in view of the textual coding of clauses and subsequent thematic analysis of the data.

► **Table A6 Source of collective agreements in sample**

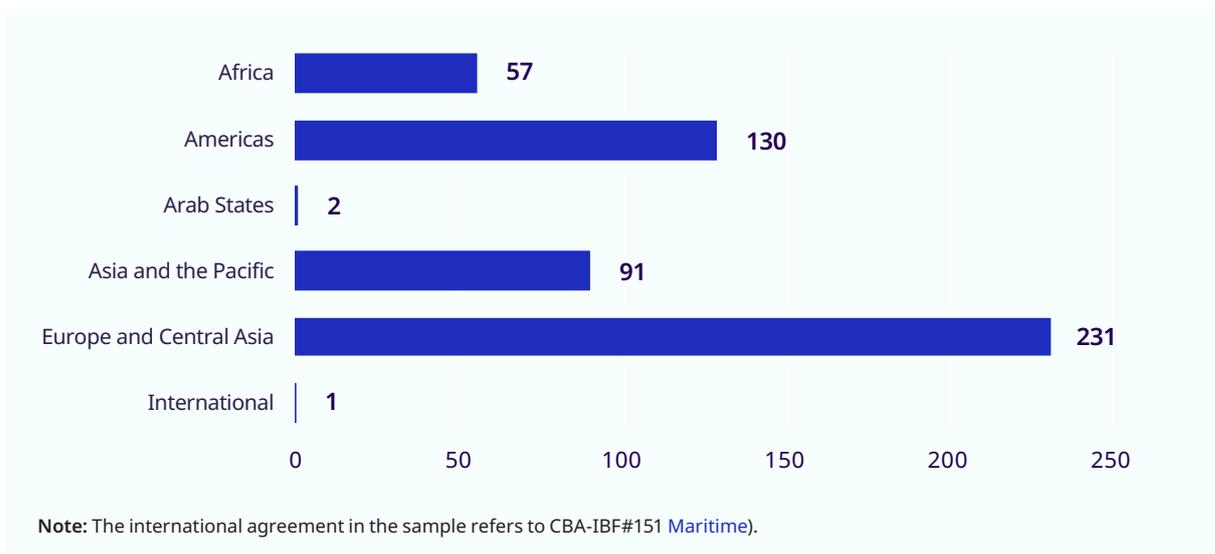
Source	Number
Primary: original collective agreements	454
Secondary: other documents	58
<b>Total</b>	<b>512</b>

► **Table A7 Secondary sources, by type**

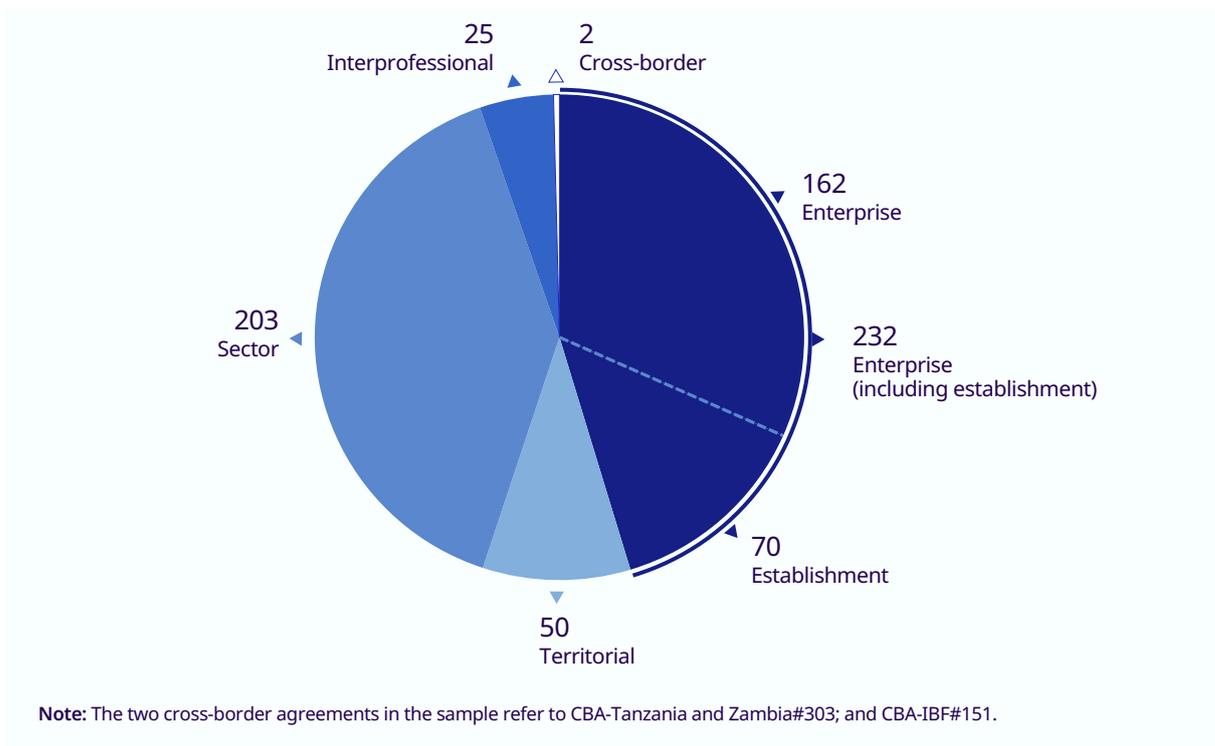
Documents from secondary sources	Number
Online sources and articles from employers, employers' organizations and trade unions	43
Media articles and online sources	35
Eurofound's COVID-19 EU PolicyWatch database	14
Planet Labor	4
Wage Indicator	2

**Note:** Multiple sources were combined when coding a collective agreement from a secondary source.

► **Figure A1 Regional distribution of sample (number of agreements)**



► **Figure A2 Level of collective agreements in the sample (number of agreements)**





- ▶ social protection;
- ▶ terms of employment;
- ▶ occupational safety and health;
- ▶ work organization;
- ▶ training, validation and retention of knowledge;
- ▶ equality and inclusion;
- ▶ crisis-related clauses;
- ▶ labour relations; and
- ▶ “other”.

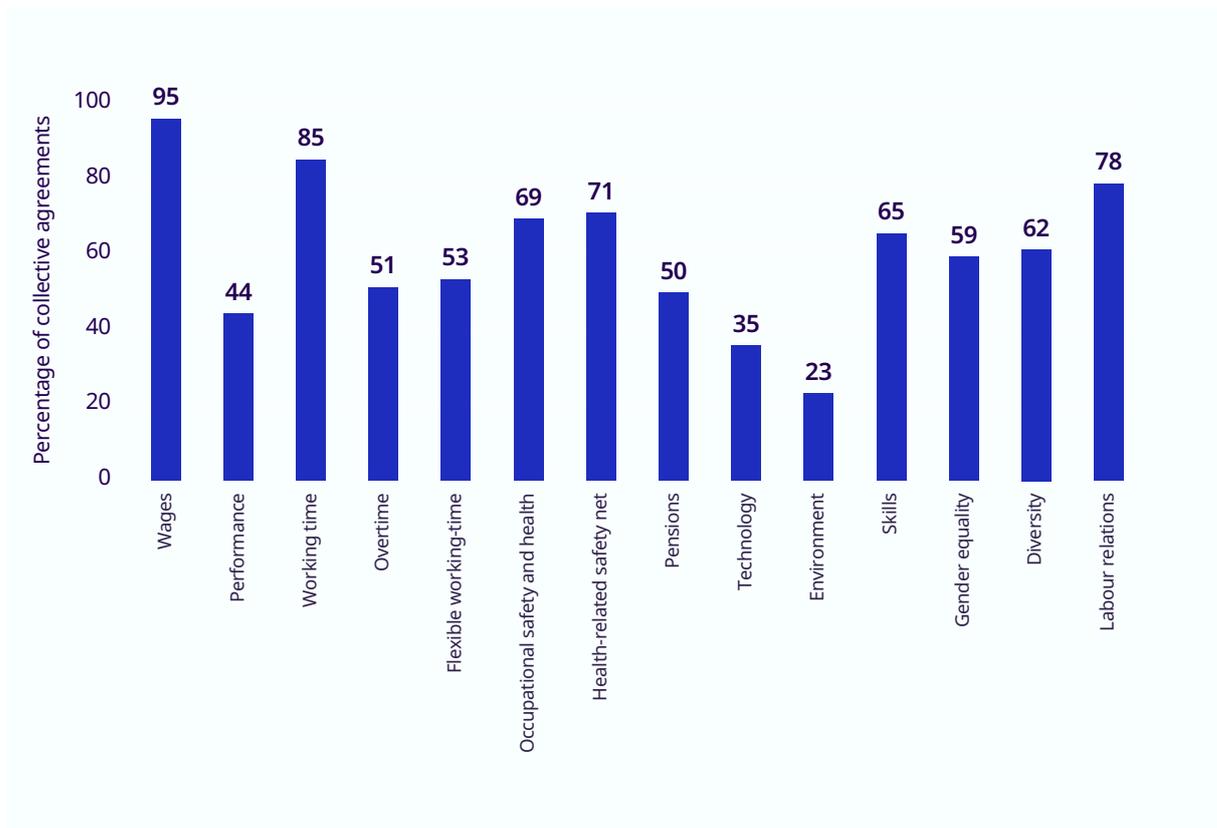
These key themes were then classified according to subcategories (“child codes”) pertinent to understanding the subjects covered by collective agreements, and in particular their content in relation to the response to the COVID-19 pandemic.

The NVivo software was used to analyse the data in two complementary ways. First, the agreements were manually coded in accordance with the coding protocol. Second, automated queries were used in the three coding languages (English, French and Spanish) to identify additional

passages that contained keywords for each topic. The results were then manually reviewed to eliminate false positives. The agreements were classified as mentioning a topic if the topic was mentioned at least once in either analysis (manual coding and/or automated queries). This process yielded the number of files of the 512 collective agreements that were found to contain at least one mention of each of the topics examined.

In addition to the frequencies examined in Chapter 3, a thematic analysis was carried out of the textual references coded under particular parent and child codes. Data analysis was performed in NVivo on different codes to explore relationships and other patterns, such as codes always appearing together, linked codes (possibly indicating trade-offs) and clauses correlated with a particular level of economic development. The methods used included cluster analysis, word frequency queries and framework matrices for theme, country and level of economic development. These findings were combined with other qualitative and quantitative evidence in Chapters 3 and 5.

▶ **Figure A4 Proportion of collective agreements mentioning selected topics (percentage)**



► Table A8 List of collective agreements coded

Number and country of origin	Sector	Date concluded (valid throughout 2020 and 2021)	Level
CBA-Germany#1	[I] Accommodation and food service activities	2020	Sector
CBA-Colombia#2	[A] Agriculture, forestry and fishing	2020	Sector
CBA-France#3	[H] Transportation and storage	2020	Enterprise
CBA-Austria#4*	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2020	Sector
CBA-Austria#5	[Q] Human health and social work activities	2020	Sector
CBA-Austria#6	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2020	Sector
CBA-Belgium#7	[C] Manufacturing	2020	Sector
CBA-Croatia#8*	[D] Electricity, gas, steam and air conditioning supply	2020	Enterprise
CBA-Croatia#9*	[H] Transportation and storage	2020	Enterprise (establishment)
CBA-Croatia#10	[O] Public administration and defence; compulsory social security	2020	Sector
CBA-Croatia#11	[I] Accommodation and food service activities	2020	Sector
CBA-Croatia#12*	[C] Manufacturing	2020	Enterprise (establishment)
CBA-South Africa#13	[S] Other service activities	2020	Sector
CBA-Estonia#14*	[H] Transportation and storage	2020	Sector
CBA-France#15	[C] Manufacturing	2020	Enterprise
CBA-France#16	[C] Manufacturing	2020	Enterprise
CBA-France#17	[C] Manufacturing	2020	Enterprise
CBA-France#18	[C] Manufacturing	2020	Enterprise
CBA-France#19	[C] Manufacturing	2020	Enterprise
CBA-France#20	[C] Manufacturing	2020	Sector
CBA-France#21	[C] Manufacturing	2020	Enterprise
CBA-France#22*	[C] Manufacturing	2020	Enterprise
CBA-France#23	[C] Manufacturing	2020	Enterprise
CBA-France#24	[D] Electricity, gas, steam and air conditioning supply	2020	Enterprise
CBA-France#25	[C] Manufacturing	2020	Enterprise
CBA-Germany#26	[C] Manufacturing	2020	Sector
CBA-Germany#27	[R] Arts, entertainment and recreation	2020	Sector
CBA-Germany#28	[C] Manufacturing	2020	Sector
CBA-Germany#29*	[C] Manufacturing	2020	Sector
CBA-Germany#30	[C] Manufacturing	2020	Sector
CBA-Germany#31	[O] Public administration and defence; compulsory social security	2020	Sector
CBA-Germany#32*	[Q] Human health and social work activities	2020	Sector
CBA-Greece#33	[N] Administrative and support service activities	2020	Sector
CBA-Italy#34	[S] Other service activities	2020	Enterprise
CBA-Ireland#35	[F] Construction	2020	Sector
CBA-Kenya#36*	[K] Financial and insurance activities	2020	Sector

\* Secondary sources (other documents).

Number and country of origin	Sector	Date concluded (valid throughout 2020 and 2021)	Level
CBA-Italy#37	[I] Accommodation and food service activities	2020	Enterprise
CBA-Italy#38	[A] Agriculture, forestry and fishing	2020	Enterprise
CBA-Italy#39	[J] Information and communication	2020	Sector
CBA-Denmark#40	[R] Arts, entertainment and recreation	2019	Sector
CBA-Lithuania#41	[Q] Human health and social work activities	2020	Sector
CBA-Venezuela#42	[F] Construction	2020	Sector
CBA-Malta#43*	[H] Transportation and storage	2020	Enterprise
CBA-Malta#44*	[H] Transportation and storage	2020	Enterprise
CBA-Norway#45	[O] Public administration and defence; compulsory social security	2020	Sector
CBA-Norway#46	[Q] Human health and social work activities	2020	Sector
CBA-Norway#47	[Q] Human health and social work activities	2020	Sector
CBA-Norway#48	[O] Public administration and defence; compulsory social security	2020	Sector
CBA-Norway#49	[P] Education	2020	Sector
CBA-Norway#50	[O] Public administration and defence; compulsory social security	2020	Sector
CBA-Italy#51	[I] Accommodation and food service activities	2021	Enterprise
CBA-United Kingdom#52	[H] Transportation and storage	2020	Enterprise
CBA-Sri Lanka#53	[C] Manufacturing	2021	Enterprise
CBA-France#54	[H] Transportation and storage	2021	Enterprise
CBA-Austria#55	[I] Accommodation and food service activities	2020	Sector
CBA-Spain#56	[I] Accommodation and food service activities	2019	Sector
CBA-Denmark#57	[S] Other service activities	2018	Enterprise
CBA-South Africa#58	[C] Manufacturing	2019	Sector
CBA-India#59	[A] Agriculture, forestry and fishing	2019	Enterprise
CBA-Australia#60	[C] Manufacturing	2021	Enterprise
CBA-Austria#61	[H] Transportation and storage	2020	Enterprise
CBA-Hungary#62	[C] Manufacturing	2020	Enterprise
CBA-Mauritius#63	[A] Agriculture, forestry and fishing	2019	Enterprise
CBA-Mauritius#64	[H] Transportation and storage	2020	Enterprise
CBA-Indonesia#65	[A] Agriculture, forestry and fishing	2020	Enterprise
CBA-Indonesia#66	[C] Manufacturing	2020	Enterprise
CBA-Indonesia#67	[C] Manufacturing	2016	Enterprise
CBA-Viet Nam#68*	[C] Manufacturing	2019	Territorial
CBA-Republic of Korea#69	[Q] Human health and social work activities	2020	Enterprise
CBA-Belize#70*	[H] Transportation and storage	2020	Enterprise
CBA-Viet Nam#71*	[C] Manufacturing	2019	Territorial
CBA-Viet Nam#72*	[I] Accommodation and food service activities	2019	Territorial
CBA-Viet Nam#73	[C] Manufacturing	2019	Territorial
CBA-Republic of Korea#74	[C] Manufacturing	2018	Enterprise

\* Secondary sources (other documents).

Number and country of origin	Sector	Date concluded (valid throughout 2020 and 2021)	Level
CBA-Republic of Korea#75	[Q] Human health and social work activities	2021	Sector
CBA-Viet Nam#76	[C] Manufacturing	2020	Enterprise
CBA-Viet Nam#77	[C] Manufacturing	2020	Enterprise
CBA-Viet Nam#78	[C] Manufacturing	2018	Enterprise
CBA-Viet Nam#79	[C] Manufacturing	2020	Enterprise
CBA-Viet Nam#80	[M] Professional, scientific and technical activities	2020	Enterprise
CBA-Canada#81	Public sector	2021	Territorial
CBA-Viet Nam#82	[C] Manufacturing	2019	Territorial
CBA-Viet Nam#83	[C] Manufacturing	2020	Territorial
CBA-Viet Nam#84	[C] Manufacturing	2020	Territorial
CBA-Chile#85*	[B] Mining and quarrying	2020	Enterprise
CBA-Philippines#86	[P] Education	2018	Sector
CBA-Colombia#87	[B] Mining and quarrying	2020	Enterprise
CBA-Republic of Korea#88	[Q] Human health and social work activities	2020	Enterprise (establishment)
CBA-Zambia#89*	[B] Mining and quarrying	2020	Enterprise (establishment)
CBA-Malaysia#90	[C] Manufacturing	2021	Enterprise (establishment)
CBA-Malaysia#91	[A] Agriculture, forestry and fishing	2021	Enterprise (establishment)
CBA-South Africa#92	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2021	Sector
CBA-Belgium#93*	[C] Manufacturing	2019	Sector
CBA-Denmark#94	[I] Accommodation and food service activities	2020	Sector
CBA-France#95	[C] Manufacturing	2021	Sector
CBA-France#96*	[C] Manufacturing	1938	Sector
CBA-Netherlands#97	[I] Accommodation and food service activities	2021	Sector
CBA-Republic of Korea#98	[Q] Human health and social work activities	2020	Sector
CBA-Pakistan#99	[I] Accommodation and food service activities	2020	Enterprise
CBA-Norway#100*	[I] Accommodation and food service activities	2020	Enterprise
CBA-Norway#101*	All activities	2021	Interprofessional
CBA-Mexico#102	[C] Manufacturing	2019	Enterprise
CBA-Mexico#103	[P] Education	2021	Enterprise
CBA-Albania#104	[Q] Human health and social work activities	2021	Sector
CBA-Albania#105	Public sector	2020	Interprofessional
CBA-Albania#106	[K] Financial and insurance activities	2020	Enterprise
CBA-Republic of Korea#107	[Q] Human health and social work activities	2020	Sector
CBA-Republic of Korea#108	[Q] Human health and social work activities	2021	Sector
CBA-Finland#109	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2020	Sector

\* Secondary sources (other documents).

Number and country of origin	Sector	Date concluded (valid throughout 2020 and 2021)	Level
CBA-Republic of Korea#110	[Q] Human health and social work activities	2020	Enterprise
CBA-Namibia#111	[F] Construction	2021	Sector
CBA-Uganda#112	[S] Other service activities	2020	Enterprise
CBA-USA#113	[D] Electricity, gas, steam and air conditioning supply	2020	Enterprise
CBA-Germany#114*	[Q] Human health and social work activities	2021	Sector
CBA-Zimbabwe#115	[C] Manufacturing	2021	Sector
CBA-Zimbabwe#116	[O] Public administration and defence; compulsory social security	2021	Territorial
CBA-Zimbabwe#117	[K] Financial and insurance activities	2021	Sector
CBA-Zimbabwe#118	[Q] Human health and social work activities	2021	Sector
CBA-Zimbabwe#119	[H] Transportation and storage	2021	Sector
CBA-Zimbabwe#120	[A] Agriculture, forestry and fishing	2021	Sector
CBA-Zimbabwe#121	[P] Education	2021	Sector
CBA-USA#122	[H] Transportation and storage	2020	Enterprise (establishment)
CBA-Austria#123	Public sector	2021	Interprofessional
CBA-USA#124	[P] Education	2021	Enterprise
CBA-Tunisia#125	All activities	2020	Interprofessional
CBA-USA#126	[P] Education	2021	Territorial
CBA-USA#127	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2021	Enterprise (establishment)
CBA-USA#128	[Q] Human health and social work activities	2021	Enterprise (establishment)
CBA-USA#129	[Q] Human health and social work activities	2021	Enterprise (establishment)
CBA-Israel#130	[Q] Human health and social work activities	2020	Sector
CBA-Italy#131	[K] Financial and insurance activities	2021	Sector
CBA-USA#132*	[Q] Human health and social work activities	2021	Enterprise (establishment)
CBA-USA#133*	[Q] Human health and social work activities	2021	Enterprise (establishment)
CBA-Germany#134*	[Q] Human health and social work activities	2021	Sector
CBA-Kazakhstan#135	[H] Transportation and storage	2021	Enterprise
CBA-Kazakhstan#136	[R] Arts, entertainment and recreation	2020	Enterprise
CBA-El Salvador#137	[O] Public administration and defence; compulsory social security	2019	Enterprise (establishment)
CBA-USA#138*	[R] Arts, entertainment and recreation	2021	Sector
CBA-Sweden#139	[H] Transportation and storage	2021	Sector
CBA-Côte d'Ivoire#140	All activities	2020	Interprofessional
CBA-Argentina#141	[B] Mining and quarrying	2018	Sector
CBA-Belgium#142	All activities	2021	Interprofessional
CBA-Belgium#143	All activities	2021	Interprofessional
CBA-Belgium#144	All activities	2021	Interprofessional

\* Secondary sources (other documents).

Number and country of origin	Sector	Date concluded (valid throughout 2020 and 2021)	Level
CBA-Belgium#145	All activities	2021	Interprofessional
CBA-Netherlands#146	[P] Education	2020	Sector
CBA-Italy#147	[C] Manufacturing	2021	Sector
CBA-Argentina#148	[K] Financial and insurance activities	2021	Sector
CBA-Philippines#149	[P] Education	2019	Enterprise
CBA-Luxembourg#150	All activities	2020	Interprofessional
CBA-IBF#151	[H] Transportation and storage (Maritime)	2019	International
CBA-USA#152	[R] Arts, entertainment and recreation	2020	Enterprise
CBA-USA#153	Public sector	2020	Territorial
CBA-Hungary#154	[C] Manufacturing	2020	Enterprise
CBA-Hungary#155	[C] Manufacturing	2020	Enterprise
CBA-Sri Lanka#156	[C] Manufacturing	2021	Enterprise (establishment)
CBA-Hungary#157	[C] Manufacturing	2020	Enterprise
CBA-Hungary#158	[C] Manufacturing	2020	Enterprise
CBA-USA#159	[F] Construction	2021	Territorial
CBA-France#160	[C] Manufacturing	2021	Enterprise
CBA-France#161	[U] Activities of extraterritorial organizations and bodies	2021	Enterprise
CBA-Brazil#162	[C] Manufacturing	2020	Enterprise
CBA-South Africa#163	[N] Administrative and support service activities	2021	Interprofessional
CBA-Germany#164	[H] Transportation and storage	2021	Sector
CBA-Germany#165	[H] Transportation and storage	2020	Sector
CBA-Spain#166	[C] Manufacturing	2021	Enterprise
CBA-Italy#167	[S] Other service activities	2020	Enterprise
CBA-USA#168	[P] Education	2021	Enterprise
CBA-Colombia#169	[O] Public administration and defence; compulsory social security	2020	Sector
CBA-Cambodia#170	[C] Manufacturing	2020	Enterprise (establishment)
CBA-New Zealand#171	[P] Education	2020	Sector
CBA-South Africa#172	[C] Manufacturing	2020	Sector
CBA-Italy#173	[Q] Human health and social work activities	2020	Sector
CBA-Spain#174	[K] Financial and insurance activities	2021	Enterprise
CBA-Norway#175	[O] Public administration and defence; compulsory social security	2020	Territorial
CBA-Argentina#176	[C] Manufacturing	2021	Sector
CBA-Finland#177	[J] Information and communication	2020	Sector
CBA-Finland#178	[Q] Human health and social work activities	2020	Sector
CBA-Finland#179	[M] Professional, scientific and technical activities	2020	Sector
CBA-Finland#180	[D] Electricity, gas, steam and air conditioning supply	2020	Sector
CBA-Finland#181	[Q] Human health and social work activities	2020	Sector

\* Secondary sources (other documents).

Number and country of origin	Sector	Date concluded (valid throughout 2020 and 2021)	Level
CBA-Finland#182	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2020	Sector
CBA-Uganda#183	[S] Other service activities	2021	Enterprise (establishment)
CBA-Portugal#184*	[H] Transportation and storage	2021	Enterprise (establishment)
CBA-North Macedonia#185	[O] Public administration and defence; compulsory social security	2020	Sector
CBA-Italy#186	[S] Other service activities	2020	Enterprise
CBA-Greece#187	[I] Accommodation and food service activities	2021	Sector
CBA-Switzerland#188	[H] Transportation and storage	2019	Sector
CBA-Denmark#189	[M] Professional, scientific and technical activities	2018	Enterprise
CBA-United Kingdom#190	[H] Transportation and storage	2019	Enterprise
CBA-Sierra Leone#191	[S] Other service activities	2020	Sector
CBA-Netherlands#192	[D] Electricity, gas, steam and air conditioning supply	2020	Sector
CBA-Netherlands#193	[H] Transportation and storage	2020	Enterprise
CBA-Netherlands#194	[K] Financial and insurance activities	2020	Enterprise
CBA-Netherlands#195	[N] Administrative and support service activities	2021	Sector
CBA-Senegal#196	All activities	2019	Interprofessional
CBA-Australia#197	[H] Transportation and storage	2021	Enterprise
CBA-Spain#198	[N] Administrative and support service activities	2021	Sector
CBA-Portugal#199*	[O] Public administration and defence; compulsory social security	2020	Enterprise
CBA-Germany#200*	[I] Accommodation and food service activities	2018	Enterprise
CBA-Finland#201	[P] Education	2020	Sector
CBA-Finland#202	[C] Manufacturing	2020	Sector
CBA-USA#203	[F] Construction	2020	Enterprise
CBA-Finland#204	[Q] Human health and social work activities	2020	Sector
CBA-Australia#205	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2021	Enterprise
CBA-Indonesia#206	[C] Manufacturing	2020	Enterprise
CBA-Australia#207*	[S] Other service activities	2017	Enterprise
CBA-Norway#208*	[I] Accommodation and food service activities	2019	Enterprise
CBA-Sweden#209	[H] Transportation and storage	2021	Sector
CBA-Spain#210*	[Q] Human health and social work activities	2021	Enterprise (establishment)
CBA-USA#211	[N] Administrative and support service activities	2020	Enterprise
CBA-Switzerland#212*	[N] Administrative and support service activities	2020	Sector
CBA-Australia#213	[H] Transportation and storage	2020	Enterprise
CBA-Liechtenstein#214*	[H] Transportation and storage	2021	Enterprise
CBA-France#215	[O] Public administration and defence; compulsory social security	2021	Sector
CBA-Italy#216	[I] Accommodation and food service activities	2021	Enterprise

\* Secondary sources (other documents).

Number and country of origin	Sector	Date concluded (valid throughout 2020 and 2021)	Level
CBA-Italy#217	[I] Accommodation and food service activities	2021	Enterprise
CBA-Italy#218	[I] Accommodation and food service activities	2022	Enterprise
CBA-Netherlands#219	Public sector	2020	Territorial
CBA-Trinidad and Tobago#220	[D] Electricity, gas, steam and air conditioning supply	2020	Enterprise
CBA-Chile#221	[A] Agriculture, forestry and fishing	2020	Enterprise
CBA-Chile#222	[M] Professional, scientific and technical activities	2020	Enterprise
CBA-Chile#223	[H] Transportation and storage	2020	Enterprise
CBA-Chile#224	[C] Manufacturing	2020	Enterprise
CBA-Chile#225	[H] Transportation and storage	2020	Enterprise
CBA-USA#226	[R] Arts, entertainment and recreation	2020	Enterprise (establishment)
CBA-France#227	[K] Financial and insurance activities	2021	Enterprise
CBA-Norway#228	[B] Mining and quarrying	2020	Sector
CBA-France#229	[C] Manufacturing	2021	Sector
CBA-Italy#230	[H] Transportation and storage	2021	Enterprise
CBA-Mexico#231	[C] Manufacturing	2020	Enterprise (establishment)
CBA-Mexico#232	[C] Manufacturing	2020	Enterprise (establishment)
CBA-Mexico#233	[P] Education	2016	Enterprise
CBA-USA#234	[O] Public administration and defence; compulsory social security	2020	Territorial
CBA-USA#235	[M] Professional, scientific and technical activities	2020	Territorial
CBA-Peru#236	[D] Electricity, gas, steam and air conditioning supply	2020	Enterprise
CBA-Australia#237	[O] Public administration and defence; compulsory social security	2020	Territorial
CBA-Australia#238	[Q] Human health and social work activities	2021	Enterprise
CBA-Argentina#239	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2020	Sector
CBA-Argentina#240	[C] Manufacturing	2020	Sector
CBA-Argentina#241	[K] Financial and insurance activities	2020	Sector
CBA-USA#242	[C] Manufacturing	2020	Enterprise
CBA-France#243*	[C] Manufacturing	2020	Enterprise
CBA-France#244	[A] Agriculture, forestry and fishing	2021	Enterprise
CBA-France#245	[D] Electricity, gas, steam and air conditioning supply	2020	Enterprise
CBA-France#246	[K] Financial and insurance activities	2020	Sector
CBA-France#247*	[C] Manufacturing	2020	Enterprise
CBA-Chile#248*	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2020	Enterprise
CBA-Argentina#249*	[Q] Human health and social work activities	2020	Sector
CBA-Argentina#250	[C] Manufacturing	2020	Sector
CBA-South Africa#251	[C] Manufacturing	2020	Sector
CBA-Argentina#252	[F] Construction	2020	Sector

\* Secondary sources (other documents).

Number and country of origin	Sector	Date concluded (valid throughout 2020 and 2021)	Level
CBA-Argentina#253	[R] Arts, entertainment and recreation	2020	Sector
CBA-Argentina#254*	[R] Arts, entertainment and recreation	2021	Sector
CBA-Argentina#255*	[D] Electricity, gas, steam and air conditioning supply	2020	Sector
CBA-Argentina#256	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2020	Sector
CBA-Argentina#257	[I] Accommodation and food service activities	2020	Sector
CBA-Argentina#258	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2020	Sector
CBA-Argentina#259	[Q] Human health and social work activities	2020	Sector
CBA-Argentina#260*	[I] Accommodation and food service activities	2020	Sector
CBA-Argentina#261*	[D] Electricity, gas, steam and air conditioning supply	2020	Sector
CBA-Argentina#262	[Q] Human health and social work activities	2020	Sector
CBA-Argentina#263	[N] Administrative and support service activities	2020	Sector
CBA-Argentina#264	[C] Manufacturing	2020	Sector
CBA-Argentina#265	[H] Transportation and storage	2020	Sector
CBA-Brazil#266	[K] Financial and insurance activities	2020	Territorial
CBA-Brazil#267	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2020	Territorial
CBA-USA#268	[N] Administrative and support service activities	2020	Enterprise (establishment)
CBA-Colombia#269	[C] Manufacturing	2020	Enterprise
CBA-Portugal#270	[P] Education	2021	Enterprise
CBA-Brazil#271	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2020	Territorial
CBA-Portugal#272	[Q] Human health and social work activities	2021	Enterprise (establishment)
CBA-USA#273	[S] Other service activities	2020	Enterprise
CBA-Brazil#274	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2021	Territorial
CBA-USA#275	[M] Professional, scientific and technical activities	2020	Enterprise (establishment)
CBA-USA#276	[N] Administrative and support service activities	2020	Enterprise (establishment)
CBA-Brazil#277	[S] Other service activities	2020	Territorial
CBA-Brazil#278	[Q] Human health and social work activities	2020	Enterprise
CBA-Brazil#279	[H] Transportation and storage	2020	Enterprise
CBA-Brazil#280	[F] Construction	2020	Territorial
CBA-Portugal#281	[A] Agriculture, forestry and fishing	2020	Sector
CBA-Brazil#282	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2020	Territorial
CBA-Brazil#283	[F] Construction	2020	Territorial
CBA-Brazil#284	[C] Manufacturing	2020	Territorial
CBA-Brazil#285	[I] Accommodation and food service activities	2020	Territorial
CBA-Brazil#286	[C] Manufacturing	2020	Territorial
CBA-Brazil#287	[I] Accommodation and food service activities	2020	Territorial

\* Secondary sources (other documents).

Number and country of origin	Sector	Date concluded (valid throughout 2020 and 2021)	Level
CBA-Brazil#288	[S] Other service activities	2020	Territorial
CBA-Brazil#289	[C] Manufacturing	2021	Territorial
CBA-Greece#290	[O] Public administration and defence; compulsory social security	2020	Sector
CBA-Sweden#291	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2020	Sector
CBA-Sweden#292	[I] Accommodation and food service activities	2020	Sector
CBA-Sweden#293	[D] Electricity, gas, steam and air conditioning supply	2020	Sector
CBA-Sweden#294	[M] Professional, scientific and technical activities	2020	Enterprise
CBA-Sweden#295	[S] Other service activities	2021	Sector
CBA-Sweden#296	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2020	Sector
CBA-Sweden#297	[F] Construction	2020	Sector
CBA-Sweden#298	[R] Arts, entertainment and recreation	2020	Sector
CBA-Sweden#299	[R] Arts, entertainment and recreation	2020	Sector
CBA-Sweden#300	[M] Professional, scientific and technical activities	2020	Sector
CBA-Sweden#301	[H] Transportation and storage	2020	Sector
CBA-Brazil#302	[N] Administrative and support service activities	2020	Territorial
CBA-Tanzania and Zambia#303	[H] Transportation and storage	2017	Cross-border (sector)
CBA-USA#304	[F] Construction	2021	Enterprise
CBA-USA#305	[C] Manufacturing	2020	Enterprise (establishment)
CBA-Brazil#306	[I] Accommodation and food service activities	2020	Territorial
CBA-USA#307	[F] Construction	2020	Territorial
CBA-USA#308	[Q] Human health and social work activities	2020	Enterprise (establishment)
CBA-USA#309	[B] Mining and quarrying	2020	Enterprise (establishment)
CBA-USA#310	[S] Other service activities	2020	Enterprise (establishment)
CBA-Uganda#311	[A] Agriculture, forestry and fishing	2021	Sector
CBA-USA#312	[D] Electricity, gas, steam and air conditioning supply	2020	Enterprise (establishment)
CBA-South Africa#313	[C] Manufacturing	2020	Sector
CBA-South Africa#314	[M] Professional, scientific and technical activities	2020	Sector
CBA-South Africa#315	[S] Other service activities	2019	Sector
CBA-South Africa#316	[C] Manufacturing	2020	Sector
CBA-South Africa#317	[S] Other service activities	2020	Sector
CBA-South Africa#318	[N] Administrative and support service activities	2021	Sector
CBA-USA#319	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2020	Enterprise (establishment)
CBA-USA#320	[S] Other service activities	2020	Enterprise (establishment)
CBA-USA#321	[D] Electricity, gas, steam and air conditioning supply	2020	Enterprise (establishment)

\* Secondary sources (other documents).

Number and country of origin	Sector	Date concluded (valid throughout 2020 and 2021)	Level
CBA-USA#322	[O] Public administration and defence; compulsory social security	2020	Territorial
CBA-Brazil#323*	[C] Manufacturing	2020	Territorial
CBA-Singapore#324	[Q] Human health and social work activities	2020	Enterprise
CBA-France#325	All activities	2020	Interprofessional
CBA-Spain#326	[K] Financial and insurance activities	2021	Sector
CBA-United Kingdom#327*	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2021	Sector
CBA-Greece#328	[I] Accommodation and food service activities	2020	Sector
CBA-Canada#329	[N] Administrative and support service activities	2020	Enterprise (establishment)
CBA-Greece#330	[E] Water supply; sewerage, waste management and remediation activities	2021	Sector
CBA-Canada#331	[H] Transportation and storage	2020	Enterprise (establishment)
CBA-Greece#332	[H] Transportation and storage	2021	Territorial
CBA-Canada#333	[B] Mining and quarrying	2020	Enterprise (establishment)
CBA-Canada#334	[H] Transportation and storage	2020	Enterprise
CBA-Japan#335	[C] Manufacturing	2014	Enterprise
CBA-Canada#336	[H] Transportation and storage	2020	Enterprise (establishment)
CBA-Japan#337	[C] Manufacturing	2005	Enterprise
CBA-Canada#338	[K] Financial and insurance activities	2020	Enterprise (establishment)
CBA-Canada#339	[H] Transportation and storage	2020	Enterprise (establishment)
CBA-Japan#340	[C] Manufacturing	2003	Enterprise
CBA-Canada#341	[C] Manufacturing	2020	Enterprise (establishment)
CBA-Japan#342	[C] Manufacturing	2014	Enterprise
CBA-China#343	[I] Accommodation and food service activities	2020	Territorial
CBA-Canada#344	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2020	Enterprise (establishment)
CBA-Malaysia#345	[M] Professional, scientific and technical activities	2020	Enterprise (establishment)
CBA-Philippines#346	[D] Electricity, gas, steam and air conditioning supply	2019	Enterprise (establishment)
CBA-France#347	All activities	2020	Interprofessional
CBA-Zimbabwe#348	[A] Agriculture, forestry and fishing	2020	Sector
CBA-Namibia#349*	[F] Construction	2020	Enterprise (establishment)
CBA-USA#350	[F] Construction	2020	Enterprise (establishment)
CBA-Venezuela#351*	[C] Manufacturing	2020	Enterprise
CBA-Germany#352*	[Q] Human health and social work activities	2020	Enterprise
CBA-Austria#353	[H] Transportation and storage	2020	Enterprise

\* Secondary sources (other documents).

Number and country of origin	Sector	Date concluded (valid throughout 2020 and 2021)	Level
CBA-Morocco#354	[C] Manufacturing	2019	Enterprise
CBA-Austria#355*	All activities	2021	Interprofessional
CBA-Norway#356*	[H] Transportation and storage	2020	Sector
CBA-Italy#357	[C] Manufacturing	2020	Enterprise
CBA-Italy#358	[C] Manufacturing	2021	Enterprise
CBA-Italy#359	[K] Financial and insurance activities	2020	Sector
CBA-USA#360	[I] Accommodation and food service activities	2020	Enterprise (establishment)
CBA-Slovakia#361	[O] Public administration and defence; compulsory social security	2021	Sector
CBA-Sierra Leone#362	[I] Accommodation and food service activities	2020	Sector
CBA-Slovakia#363	[O] Public administration and defence; compulsory social security	2021	Sector
CBA-Slovakia#364	[Q] Human health and social work activities	2021	Sector
CBA-Slovakia#365	[J] Information and communication	2021	Sector
CBA-Slovakia#366	[B] Mining and quarrying	2021	Sector
CBA-USA#367	[F] Construction	2020	Enterprise (establishment)
CBA-USA#368	N] Administrative and support service activities	2021	Enterprise (establishment)
CBA-USA#369	[F] Construction	2020	Enterprise
CBA-USA#370	Public sector	2020	Territorial
CBA-Uganda#371	[S] Other service activities	2021	Enterprise (establishment)
CBA-Uganda#372	[S] Other service activities	2021	Enterprise (establishment)
CBA-Georgia#373	[H] Transportation and storage	2016	Territorial
CBA-Netherlands#374	[H] Transportation and storage	2021	Sector
CBA-Sweden#375	[C] Manufacturing	2020	Sector
CBA-Belgium#376	All activities	2020	Interprofessional
CBA-Belgium#377	[C] Manufacturing	2019	Sector
CBA-Belgium#378	[C] Manufacturing	2020	Sector
CBA-Portugal#379	[F] Construction	2020	Enterprise
CBA-Slovakia#380	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2020	Sector
CBA-Portugal#381	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2021	Enterprise
CBA-Sri Lanka#382	[C] Manufacturing	2020	Enterprise (establishment)
CBA-Sri Lanka#383	[C] Manufacturing	2021	Enterprise (establishment)
CBA-Czechia#384	Public sector	2019	Interprofessional
CBA-Czechia#385	[C] Manufacturing	2018	Enterprise
CBA-Czechia#386	[H] Transportation and storage	2021	Sector
CBA-Czechia#387	[C] Manufacturing	2021	Sector

\* Secondary sources (other documents).

Number and country of origin	Sector	Date concluded (valid throughout 2020 and 2021)	Level
CBA-Czechia#388	[A] Agriculture, forestry and fishing	2020	Sector
CBA-Austria#389	[D] Electricity, gas, steam and air conditioning supply	2021	Sector
CBA-Austria#390	[H] Transportation and storage	2021	Sector
CBA-Belgium#391	All activities	2021	Interprofessional
CBA-Colombia#392	[K] Financial and insurance activities	2020	Enterprise
CBA-Colombia#393	All activities	2020	Territorial
CBA-Colombia#394*	[C] Manufacturing	2020	Enterprise
CBA-Croatia#395	[O] Public administration and defence; compulsory social security	2020	Sector
CBA-Croatia#396	Public sector	2020	Interprofessional
CBA-Denmark#397	[I] Accommodation and food service activities	2021	Sector
CBA-North Macedonia#398	[Q] Human health and social work activities	2020	Sector
CBA-Denmark#399	[H] Transportation and storage	2020	Sector
CBA-Peru#400	[F] Construction	2020	Sector
CBA-Peru#401	[O] Public administration and defence; compulsory social security	2020	Enterprise (establishment)
CBA-United Kingdom#402	[H] Transportation and storage	2021	Territorial
CBA-Denmark#403	[O] Public administration and defence; compulsory social security	2020	Sector
CBA-Denmark#404	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2021	Sector
CBA-Denmark#405	[J] Information and communication	2020	Sector
CBA-Australia#406	[F] Construction	2021	Enterprise
CBA-Denmark#407	[Q] Human health and social work activities	2020	Sector
CBA-Tanzania#408	[K] Financial and insurance activities	2018	Enterprise
CBA-Australia#409	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2020	Enterprise (establishment)
CBA-Viet Nam#410	[C] Manufacturing	2020	Territorial
CBA-Estonia#411*	[H] Transportation and storage	2020	Enterprise
CBA-Estonia#412*	[H] Transportation and storage	2020	Enterprise
CBA-Germany#413	[C] Manufacturing	2020	Enterprise
CBA-Jordan#414	[C] Manufacturing	2019	Sector
CBA-Kazakhstan#415	All activities	2021	Interprofessional
CBA-Netherlands#416	[Q] Human health and social work activities	2021	Sector
CBA-Indonesia#417	[C] Manufacturing	2019	Enterprise (establishment)
CBA-Senegal#418	Private sector	2020	Interprofessional
CBA-Sierra Leone#419	[C] Manufacturing	2020	Sector
CBA-South Africa#420	[C] Manufacturing	2021	Sector
CBA-South Africa#421	[C] Manufacturing	2020	Sector
CBA-Spain#422	All activities	2020	Interprofessional
CBA-Spain#423	[J] Information and communication	2020	Sector

\* Secondary sources (other documents).

Number and country of origin	Sector	Date concluded (valid throughout 2020 and 2021)	Level
CBA-Spain#424	[K] Financial and insurance activities	2020	Enterprise
CBA-Spain#425	[J] Information and communication	2020	Enterprise
CBA-Spain#426	[R] Arts, entertainment and recreation	2020	Sector
CBA-China#427	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2021	Enterprise
CBA-Spain#428	[H] Transportation and storage	2019	Enterprise
CBA-Spain#429	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2020	Enterprise
CBA-Malaysia#430	[C] Manufacturing	2021	Enterprise (establishment)
CBA-Jordan#431	[C] Manufacturing	2019	Sector
CBA-Spain#432	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2020	Sector
CBA-Spain#433	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2020	Territorial
CBA-Spain#434	[M] Professional, scientific and technical activities	2019	Sector
CBA-Spain#435	[C] Manufacturing	2020	Sector
CBA-Spain#436	[D] Electricity, gas, steam and air conditioning supply	2020	Enterprise
CBA-Spain#437	[J] Information and communication	2020	Enterprise
CBA-Switzerland#438	[C] Manufacturing	2020	Sector
CBA-Switzerland#439	[N] Administrative and support service activities	2020	Sector
CBA-Switzerland#440	[D] Electricity, gas, steam and air conditioning supply	2020	Sector
CBA-Switzerland#441	[G] Wholesale and retail trade; repair of motor vehicles and motorcycles	2021	Sector
CBA-Togo#442	Private sector	2020	Interprofessional
CBA-New Zealand#443	[Q] Human health and social work activities	2020	Enterprise
CBA-Tanzania#444	[S] Other service activities	2018	Enterprise
CBA-Ireland#445	Public sector	2021	Sector
CBA-Italy#446	[D] Electricity, gas, steam and air conditioning supply	2020	Enterprise
CBA-Senegal#447	[N] Administrative and support service activities	2019	Sector
CBA-South Africa#448	[C] Manufacturing	2021	Sector
CBA-Senegal#449	[J] Information and communication	2018	Sector
CBA-Chile#450	[P] Education	2020	Enterprise (establishment)
CBA-USA#451	[J] Information and communication	2021	Enterprise
CBA-Cambodia#452	[C] Manufacturing	2020	Enterprise (establishment)
CBA-India#453	[C] Manufacturing	2021	Enterprise
CBA-Uruguay#454	[F] Construction	2020	Sector
CBA-Uruguay#455	[Q] Human health and social work activities	2020	Sector
CBA-Uruguay#456	[H] Transportation and storage	2021	Territorial
CBA-Uruguay#457	[I] Accommodation and food service activities	2020	Sector
CBA-Cambodia#458	[I] Accommodation and food service activities	2020	Enterprise (establishment)

\* Secondary sources (other documents).

Number and country of origin	Sector	Date concluded (valid throughout 2020 and 2021)	Level
CBA-Namibia#459	Public sector	2020	Interprofessional
CBA-Lesotho#460	[E] Water supply; sewerage, waste management and remediation activities	2020	Enterprise
CBA-Serbia#461	[R] Arts, entertainment and recreation	2021	Territorial
CBA-USA#462*	[H] Transportation and storage	2021	Enterprise
CBA-Israel#463*	[P] Education	2021	Enterprise (establishment)
CBA-Germany#464	[C] Manufacturing	2021	Sector
CBA-Israel#465	Public sector	2021	Interprofessional
CBA-Australia#466	[M] Professional, scientific and technical activities	2020	Enterprise (establishment)
CBA-United Kingdom#467*	[P] Education	2020	Enterprise
CBA-Togo#468	[F] Construction	2019	Sector
CBA-USA#469*	[J] Information and communication	2020	Enterprise
CBA-New Zealand#470	[P] Education	2020	Enterprise
CBA-New Zealand#471	[Q] Human health and social work activities	2020	Enterprise
CBA-Sri Lanka#472	[A] Agriculture, forestry and fishing	2019	Sector
CBA-Sri Lanka#473	[C] Manufacturing	2019	Enterprise
CBA-Sri Lanka#474	[C] Manufacturing	2019	Enterprise
CBA-Slovenia#475	[I] Accommodation and food service activities	2020	Sector
CBA-Slovenia#476	[C] Manufacturing	2020	Sector
CBA-Slovenia#477	[H] Transportation and storage	2020	Sector
CBA-Republic of Korea#478	[K] Financial and insurance activities	2020	Sector
CBA-Republic of Korea#479	[I] Accommodation and food service activities	2020	Enterprise
CBA-Republic of Korea#480	[K] Financial and insurance activities	2021	Sector
CBA-Republic of Korea#481	[Q] Human health and social work activities	2020	Sector
CBA-Republic of Korea#482	[C] Manufacturing	2020	Sector
CBA-Republic of Korea#483	[I] Accommodation and food service activities	2020	Sector
CBA-Republic of Korea#484*	[C] Manufacturing	2020	Sector
CBA-USA#485	[P] Education	2021	Enterprise
CBA-USA#486*	[H] Transportation and storage	2020	Enterprise
CBA-Malaysia#487	[H] Transportation and storage	2020	Enterprise (establishment)
CBA-Ukraine#488	[H] Transportation and storage	2020	Sector
CBA-Malaysia#489	[C] Manufacturing	2021	Enterprise (establishment)

\* Secondary sources (other documents).

Number and country of origin	Sector	Date concluded (valid throughout 2020 and 2021)	Level
CBA-Malaysia#490	[A] Agriculture, forestry and fishing	2020	Enterprise (establishment)
CBA-Malaysia#491	[C] Manufacturing	2020	Enterprise (establishment)
CBA-Malaysia#492	[K] Financial and insurance activities	2018	Enterprise (establishment)
CBA-Malaysia#493	[I] Accommodation and food service activities	2018	Enterprise (establishment)
CBA-Costa Rica#494	[E] Water supply; sewerage, waste management and remediation activities	2019	Enterprise
CBA-Mongolia#495	[F] Construction	2021	Sector
CBA-Kenya#496	[P] Education	2021	Sector
CBA-Tanzania#497	[K] Financial and insurance activities	2020	Enterprise (establishment)
CBA-India#498	[K] Financial and insurance activities	2020	Sector
CBA-Bangladesh#499	[C] Manufacturing	2020	Enterprise (establishment)
CBA-South Africa#500	[H] Transportation and storage	2020	Sector
CBA-Tanzania#501	[C] Manufacturing	2017	Enterprise
CBA-Tanzania#502	[C] Manufacturing	2018	Enterprise (establishment)
CBA-China#503	[C] Manufacturing	2018	Enterprise
CBA-China#504	[C] Manufacturing	2018	Enterprise
CBA-China#po505	[C] Manufacturing	2018	Enterprise
CBA-China#506	[D] Electricity, gas, steam and air conditioning supply	2018	Enterprise
CBA-China#507	[E] Water supply; sewerage, waste management and remediation activities	2018	Enterprise
CBA-Viet Nam#508	[C] Manufacturing	2019	Territorial
CBA-Viet Nam#509	[C] Manufacturing	2020	Territorial
CBA-Spain#510	[I] Accommodation and food service activities	2021	Enterprise
CBA-Senegal#511	[I] Accommodation and food service activities	2021	Sector
CBA-Singapore#512	[Q] Human health and social work activities	2020	Sector

\* Secondary sources (other documents).

## Appendix VI: Methodology for Better Work assessment of OSH compliance during the COVID-19 pandemic

This appendix details the methodology used in Chapter 5 for box 5.8, “Better Work assessment of OSH compliance during the COVID-19 pandemic”. The study draws on and expands the findings of Lupo and Verma (2020)<sup>1</sup> on the effects of trade unions and collective agreements on compliance with standards and regulations pertaining to wages, social protection, contracts and OSH.

The assessment of OSH compliance during the COVID-19 pandemic was based on data provided by Better Work, an ILO programme established in partnership with the International Finance Corporation that seeks to improve working conditions and enhance business competitiveness in the global garment industry. When factories join the programme, they are coached to create (or work with existing) bipartite worker-management committees and self-diagnose labour rights violations. Better Work’s Enterprise Advisors carry out periodic independent, unannounced assessments to identify labour rights violations with regard to national laws and international labour standards, and advise factories on possible remedies through social dialogue and learning. The areas covered in assessments encompass the fundamental principles and rights at work (that is, freedom of association and collective bargaining, the elimination of child labour and forced labour, and non-discrimination) and national laws on compensation, contracts, OSH, working hours and leave.

During the COVID-19 crisis, factories within the Better Work programme adjusted in at least three ways: by minimizing the risk of contagion and addressing OSH challenges; by increasing consultation in bipartite worker-manager committees; and by negotiating measures to protect employment and ensure productivity.

To assess the role that collective bargaining played in minimizing the risks of contagion and addressing OSH challenges, the analysis focused on the relationship between the implementation of a collective agreement and OSH compliance levels across factories in Cambodia, Jordan and Viet Nam. Assessments were conducted in a total of 393 factories by the Better Work programme from March 2020 onwards (see table A9). Compliance with OSH standards was examined across specific categories, namely chemicals and hazardous substances, emergency preparedness, health services and first aid, OSH management systems, welfare facilities, worker accommodation, worker protection and, lastly, working environment (see table A10). If a factory was found to be non-compliant with at least one question in a given category, non compliance was recorded for the whole category.<sup>2</sup>

Similarly, analysis of collective agreement implementation draws on data collected during assessments. This considers whether the factory has a collective agreement in place at the time of the assessment and whether the agreement is in

► **Table A9** Number of Better Work compliance assessments during the COVID-19 pandemic, by country

Country	Number of factories assessed	Period of assessment	
		From	To
Cambodia	122	11 August 2020	3 December 2020
Jordan	48	28 June 2020	24 January 2021
Viet Nam	223	17 March 2020	29 December 2020
<b>Total</b>	<b>393</b>		

1 Luisa Lupo and Anil Verm, “Labour Standards Compliance in the Global Garment Supply Chain: Evidence from ILO’s Better Work Program on the Role of Unions and Collective Bargaining”, Better Work Programme Discussion Paper No. 37, 2020.

2 See the description of the Compliance Assessment Tool on the Better Work website, <https://betterwork.org/portfolio/better-works-global-compliance-assessment-tool/#1472163251185-701116e5-c8191365-52ab>.

accordance with applicable national requirements (for example, when it sets out conditions that are at least as favourable as the law) and all its provisions have been implemented (see table A11). The comparison of compliance with OSH standards

between factories with no collective agreement and those with a collective agreement that has been implemented is based on a cross-tabulation, with the objective of providing a snapshot of factory compliance during the COVID-19 pandemic.

► **Table A10 Assessment of OSH compliance**

<b>OSH management systems</b>	Does the factory have a written OSH policy?
	Has the employer performed an assessment of general OSH issues in the factory?
	Has the employer developed mechanisms to ensure cooperation between workers and management on OSH matters?
	Does the employer record work-related accidents and diseases?
	Does the employer have legally required construction/building permits?
<b>Emergency preparedness</b>	Does the workplace have a fire detection and alarm system?
	Does the workplace have adequate firefighting equipment?
	Has the employer trained an appropriate number of workers to use the firefighting equipment?
	Are emergency exits and escape routes clearly marked and posted in the workplace?
	Are there enough emergency exits?
	Are the emergency exits accessible, unobstructed and unlocked during working hours, including overtime hours?
	Does the employer conduct periodic emergency drills?
	Does the employer comply with emergency evacuation requirements?
	Are flammable materials safely stored?
Are possible sources of ignition appropriately safeguarded?	
<b>Worker protection</b>	Are workers punished if they remove themselves from work situations that they believe to present an imminent and serious danger to life or health?
	Does the employer provide workers with all necessary personal protective clothing and equipment?
	Are workers effectively trained and encouraged to properly use personal protective equipment and machines?
	Does the employer comply with ergonomic requirements?
	Are proper guards installed and maintained on all dangerous machines and equipment?
	Are electrical wires, cables, switches, plugs and other equipment (e.g. transformers, generators, electrical panels, circuit breakers) properly installed, grounded (for equipment) and maintained?
	Are appropriate safety warnings posted in the workplace?
	Do the operators/technicians working with machinery, equipment, electrical installations, boilers, lifting equipment and/or welding tools have the legally required licence/permit/certification/training?
	Does the employer have the legally required permits/certificates for the installation/operation/maintenance of special machines and equipment (e.g. electrical installations, generators, boilers, lifting equipment and/or welding tools)?
Has the employer taken legally required measures to protect workers from falls from heights?	
<b>Chemicals and hazardous material</b>	Does the employer use chemicals and hazardous substances?
	<ul style="list-style-type: none"> <li>• Does the employer keep an inventory of chemicals and hazardous substances used in the workplace?</li> <li>• Are chemicals and hazardous substances properly labelled?</li> <li>• Are chemicals and hazardous substances properly stored?</li> <li>• Does the employer have chemical safety data sheets for the hazardous chemicals used in the workplace?</li> <li>• Has the employer taken action to assess, monitor, prevent and limit workers' exposure to chemicals and hazardous substances?</li> <li>• Has the employer effectively trained workers who work with chemicals and hazardous substances?</li> <li>• Does the employer provide adequate washing facilities and cleansing materials in the event of exposure to hazardous chemicals?</li> </ul>

<b>Working environment</b>	Is the workplace temperature, ventilation, noise, lighting and/or cleanliness unacceptable? <ul style="list-style-type: none"> <li>• Are the temperature and ventilation acceptable?</li> <li>• Are noise levels acceptable?</li> <li>• Is the workplace adequately lit?</li> <li>• Is the workplace clean and tidy?</li> </ul>
<b>Health services and first aid</b>	Does the employer comply with legal requirements regarding medical checks for workers?
	Does the employer address safety and health risks to pregnant or nursing workers?
	Does the employer comply with requirements on HIV/AIDS?
	Does the workplace have required on-site medical facilities and staff?
	Has the employer ensured that there are a sufficient number of readily accessible first aid boxes/supplies in the workplace?
	Has the employer provided first-aid training for workers?
<b>Welfare facilities</b>	Does the workplace have adequate accessible toilets?
	Does the workplace have adequate hand-washing facilities and adequate soap?
	Does the employer provide workers enough free safe drinking water?
	Does the workplace have all required facilities?
	Does the workplace have an adequate eating area?
<b>Worker accommodation</b>	Do workers and/or supervisors stay in dorms on the factory premises, or do workers stay in offsite housing that is managed by the employer? <ul style="list-style-type: none"> <li>• Does the accommodation comply with minimum space requirements?</li> <li>• Is the accommodation separate from the workplace (even though it may be in the same compound/industrial park)?</li> <li>• Does the accommodation have enough safe water?</li> <li>• Does the accommodation have adequate toilets, showers, sewage and garbage disposal systems?</li> <li>• Is the accommodation protected against fire?</li> <li>• Is the accommodation adequately protected against heat, cold, and dampness?</li> <li>• Is the accommodation protected against disease-carrying animals or insects?</li> <li>• Is the accommodation protected against noise?</li> <li>• Is the accommodation adequately ventilated?</li> <li>• Does the accommodation have adequate cooking and storage facilities?</li> <li>• Is the accommodation adequately lit?</li> <li>• Does the accommodation offer workers adequate privacy?</li> <li>• Does the accommodation comply with other health and safety requirements?</li> <li>• Has the employer adequately prepared for emergencies in the accommodation?</li> </ul>

**Note:** Some of the questions have two levels, a primary question and sub-questions.

**Source:** [Compliance Assessment Tool](#).

► **Table A11 Assessment of compliance with collective agreement implementation**

<b>Collective bargaining</b>	Is there a collective agreement in effect in the factory?
<b>Collective agreement implemented</b>	<ul style="list-style-type: none"> <li>• If there is a collective agreement, are the provisions at least as favourable for workers as the law?</li> <li>• Does the employer prevent workers from accessing copies of collective bargaining agreements or learning about their provisions?</li> <li>• Has the employer failed to implement any of the provisions of the collective agreement(s) in force?</li> </ul>

**Source:** [Compliance Assessment Tool](#).



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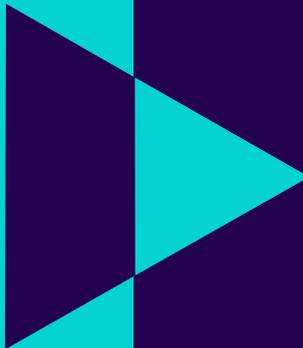
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## Advancing social justice, promoting decent work

The International Labour Organization is the United Nations agency for the world of work. We bring together governments, employers and workers to drive a human-centred approach to the future of work through employment creation, rights at work, social protection and social dialogue.



This first ILO flagship *Social Dialogue Report* focuses on collective bargaining. As a long-standing process of social dialogue, collective bargaining has played an important role in many countries in securing decent work, guaranteeing equality of opportunity and treatment, reducing wage inequality and stabilizing labour relations. It offers a unique mechanism for regulating the conditions of work and terms of employment – one enacted by the parties themselves. This report focuses on the contribution that employers' and workers' organizations make to the inclusive and effective governance of work through collective bargaining.

The report examines the role that collective bargaining played in mitigating the impact of the COVID-19 crisis on employment and earnings, helping to cushion some of the effects on inequality while reinforcing the resilience of enterprises and labour markets. The tailoring of public health measures and strengthening of occupational safety and health at the workplace, together with the paid sick leave and healthcare benefits provided for in many collective agreements, protected workers and supported the continuity of economic activity.

Looking to the future, the report considers the contribution of collective bargaining to a human-centred recovery. It highlights the need to reaffirm the democratic principles and rights that give employers and all workers a voice in the governance of work: freedom of association and the effective recognition of the right to collective bargaining. These founding principles of the ILO enable the development of strong and representative workers' and employers' organizations, whose actions and agreements can pave the way for a recovery that is inclusive, sustainable and resilient.

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International Labour Organization  
Route des Morillons 4  
1211 Geneva 22  
Switzerland