

# ► Industrial relations in micro and small enterprises: patterns, trends and prospects

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ISBN 9789220412176 (print), ISBN 9789220412183 (web PDF), ISBN 9789220412190 (epub), ISBN 9789220412213 (mobi), ISBN 9789220412206 (html). ISSN 2708-3438 (print), ISSN 2708-3446 (digital)

<https://doi.org/10.54394/XJHF2363>

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Authorization for publication: Philippe Marcadent

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**Suggested citation:**

Serrano, M., Xhafa, E. 2024. *Industrial relations in micro and small enterprises: patterns, trends and prospects*, ILO Working Paper 129 (Geneva, ILO). <https://doi.org/10.54394/XJHF2363>

## Abstract

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This working paper offers a global review of industrial relations within micro and small enterprises (MSEs), focusing on the collective representation of workers and employers, collective bargaining, and legal frameworks. MSEs and the self-employed account for 70 per cent of global employment, largely in the informal economy, and face challenges such as the limited reach of labour law and weak industrial relations mechanisms. The paper highlights the scarcity of research on industrial relations in MSEs and makes recommendations for further research in this area. It outlines policy recommendations for governments, employers' organizations, and trade unions, emphasizing the need for inclusive labour laws and strengthened industrial relations as important pillars of a conducive environment for sustainable enterprises. Overall, the working paper underscores the importance of collaborative efforts and tailored support to strengthen the role of industrial relations in fostering decent work in MSEs.

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## Acronyms

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<b>CFA</b>	Committee on Freedom of Association
<b>EBMO</b>	Employer and Business Membership Organization
<b>EU</b>	European Union
<b>GDP</b>	Gross domestic product
<b>ILO</b>	International Labour Organization
<b>LMC</b>	Labour-management council
<b>MSE</b>	Micro and small enterprise
<b>MSME</b>	Micro and small and medium enterprise
<b>OSH</b>	Occupational safety and health
<b>SME</b>	Small and medium enterprise



## Executive Summary

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This working paper provides an international review of knowledge on industrial relations in micro and small enterprises (MSEs). It focuses on four areas: the collective representation of workers; the collective representation of employers; collective bargaining and social dialogue; and the legal and policy frameworks that influence representation and bargaining. The working paper also analyses literature on the role of industrial relation in improving working conditions in MSEs. Finally, it makes recommendations to practitioners and policymakers for developing sound industrial relations in MSEs.

MSEs, together with self-employment, account for 70 per cent of global employment, which underscores their potential to create decent work. However, and although research focusing on the quality of employment in MSEs is very limited, available evidence suggests that decent work deficits are typically more pronounced in MSEs than in larger enterprises and that the majority of MSEs and jobs created by MSEs are informal. At the same time, MSEs tend to exhibit lower levels of productivity and tend to be more vulnerable to shocks compared to larger enterprises, especially when business environments are not conducive to sustainable enterprise development.

### Industrial relations in MSEs tend to be underdeveloped

Despite limitations, the evidence reviewed in this working paper finds that industrial relations systems and institutions in MSEs tend to be underdeveloped, including low density of trade unions and employers' organizations. The reasons for this are three-fold.

First, significant evidence confirms the critical contribution of industrial relations to the 'high road' model of development. The high road model focuses on employment creation and decent work, that is, social protection, rights at work and social dialogue, as well as training and development opportunities for workers, employee discretion and autonomy, and a supportive environment in which employees may successfully balance work, family and personal responsibilities. This working paper finds that laws and policies aimed at developing MSEs seldom touch on labour and industrial relations issues, especially for informal MSEs. In many countries, labour and social protection laws may not apply comprehensively to MSEs or are not consistently enforced. Workers and economic units are also excluded from membership in trade union and employers' organizations in various countries.

Second, the weak unionisation and worker representation in MSEs, i.e., a "representation gap", can be attributed to various factors, including the nature of employment relations, which tend to exhibit high levels of vulnerability, managerial practices, regulatory frameworks that exclude workers in MSEs, and the limited capacities and mandates of existing trade unions to reach out to workers in MSEs. Furthermore, numerical requirements or thresholds for union organization or registration, increase the likelihood of low union density in MSEs. The review finds that, nonetheless, there is a diverse landscape of worker representation systems in MSEs.

Third, MSEs are less likely to be members of employer and business membership organizations (EBMOs) than larger enterprises. Key barriers to membership include the types of services offered, membership fees, market conditions, national legal frameworks on industrial relations, and union pressure.

## Industrial relations in MSEs can be strengthened through coordinated efforts of policymakers and social partners

The literature reviewed shows that the quality of industrial relations systems is determined by the degree of respect of fundamental worker rights and of the strength of representation structures of workers and employers. Policy measures that help improve workplace relations and working conditions in MSEs include coverage of labour laws for MSEs, unionization, policy measures that promote inclusive bargaining frameworks (e.g., sectoral and multi-employer bargaining, especially if combined with extension mechanisms, and collective bargaining clauses in public procurement), and observance of collective agreements (e.g., stronger labour inspection). Removing thresholds on unionization in MSEs, and the extensive use of sectoral bargaining with extension mechanisms are more likely to encourage higher union density, higher EBMO density, and collective bargaining coverage in MSEs. Tripartite structures at the sectoral/industry, regional/territorial, and national level that include representatives of MSEs employers and trade unions can likewise improve job quality, labour relations and collective bargaining in MSEs.

Where evidence exists, albeit limited, strong industrial relations institutions play an important role in improving job quality in MSEs. A key finding of this review is that the development of industrial relations institutions in MSEs involves the combination of three approaches: a state-led approach (i.e., the state enacting and enforcing the laws and regulatory frameworks), a bottom-up approach by the MSE workers and employers themselves and their respective organizations, as well as workers' and employers' organization extending their services to those in the informal economy. The latter involves creating an enabling environment for industrial relations, including the effective representation of workers and employers in MSEs. It is important to emphasise, however, that the quality of industrial relations in MSEs is intrinsically linked to the broader system of industrial relations in a country, including social dialogue structures and processes that provide repeated opportunities for consultation.

Evidence from several countries provides concrete examples of how governments are improving compliance of MSEs with labour laws as well as working towards the formalization of the informal economy. Furthermore, employers' and workers' organisations are engaging in strategies which seek to close the representation gap in an attempt to use industrial relations institutions to improve working conditions and labour relations in MSEs. Several studies articulate how trade unions have extended their mandates to reach out to workers in the informal economy or have cooperated with organizations representing workers in the sector. Many EBMOs are extending interest representation to small and medium-sized enterprises (SMEs), though less so to microenterprises and informal MSEs, and have included collective bargaining among their functions.

Building on the key findings articulated above, this working paper outlines a set of policy recommendations for state-led action as well as bottom-up initiatives by social partners.

## Recommendations for governments

1. Strengthen protection for workers in the informal economy, notably through transition to formality, by ensuring they are covered by labour law and its application, including for accessing to social protection schemes, adequate wages and others decent working conditions as well as facilitating their access to affordable quality public services. This would be critical not only for improving working conditions but also for removing the vulnerabilities that lead workers to continue working in the informal economy and impede them from organizing

2. Strengthen national systems of industrial relations, especially freedom of association and the effective recognition of the right to collective bargaining. This includes ensuring that all workers, regardless of the nature of their employment and including informal workers, have the right to join existing federations or establish trade unions of their own choice; incentivizing MSE employers to organize and/or join EBMOs that deal with labour market and industrial relations issues; and providing other important support services such as promoting inclusive collective bargaining systems, with a special focus on sectoral (multi-employer) bargaining.
3. Create an enabling environment for sustainable enterprises, including through the design and implementation of public policies and support programmes, paying particular attention to MSEs in order to ensure that they have the means and resources to offer productive and decent employment.

## Recommendations for employers' organizations

1. Explore whether services of employers' organizations can be expanded and adapted, when necessary, to MSEs, including those operating in the informal economy, following the guidance of the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204). Ensure that the voices of MSEs are heard in EBMOs and that they are represented in the governing bodies of EBMOs.
2. Continue to provide services that promote enterprise performance and productivity (for example, digitalization and innovation, capacity-building, business networking, peer-to-peer lending, team-based leadership style, employee engagement, good human resource practices), as well as programmes and services that assist MSEs in observing workers' rights, including freedom of association and collective bargaining rights.
3. Ensure that MSEs are represented in tripartite structures at the sectoral and national levels, as well as in networks at local and other subnational levels, in other business and/or professional organizations and institutions, and in bodies responsible for labour issues.
4. Provide advice and services linked to collective bargaining, such as assisting MSEs in understanding the fundamental rights to freedom of association and collective bargaining and provide support in collective bargaining.
5. Offer services such as providing information on wage-setting, productivity and sectoral developments; providing legal advice on regulations and procedures; and organizing training on topics such as negotiation skills.
6. Advocate for an enabling environment for sustainable enterprises, while bearing in mind the specific needs of MSEs.

## Recommendations for trade unions

1. Engage with existing associations of formal and informal MSE workers to promote workers' rights and join efforts to advance the agendas and priorities of these workers. This could result in workers in MSEs becoming more familiar with the work of trade unions and in the promotion of affiliation.
2. Extend or further expand services or membership to workers in the informal economy following the guidance of Recommendation No. 204.<sup>1</sup> This could be done by learning from positive

<sup>1</sup> Many trade unions are already extending services; for examples, see ILO (2019c).

experiences within the labour movement to support affiliates in their attempt to organize workers outside the classical union sectors.

3. Promote the establishment or strengthening of workers' representation at the enterprise, regional, sectoral or national levels, which could support workers in industrial relations issues in MSEs. These structures may also serve as a framework of organizing these workers collectively, as well as help to address the threshold limitations for unionization set in legal frameworks.
4. Actively engage in broader policy initiatives, such as access to quality public services, comprehensive social protection schemes, adequate wages and others to remove vulnerabilities that constrain these workers to organize.

Finally, the dearth of research on industrial relations in MSEs imposes significant limitations on this study and highlights the need for further research. This working paper recommends to further investigate the linkages between industrial relations and working conditions in MSEs as well as the role of an enabling environment for sustainable enterprise development.

## ► Preface

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This Working Paper provides a global review of industrial relations in micro and small enterprises (MSEs), with a focus on the regulatory frameworks, representation of workers and employers and collective bargaining. MSEs, along with the self-employed, represent 70 percent of global employment. MSEs face significant challenges such as limited application of labour law and weak industrial relations systems.

The Working Paper highlights the lack of research on industrial relations in MSEs and offers recommendations for further work in this area. However, and although knowledge of the quality of employment in MSEs is limited, available evidence suggests that decent work deficits are typically more pronounced in these enterprises than in larger ones and that the majority of MSEs and jobs created by them are informal.

The Working Paper presents policy suggestions for governments, employers' organizations, and trade unions, stressing the need for inclusive labour laws and stronger industrial relations as essential foundations of a conducive environment for fostering sustainable enterprises. Ultimately, the Working Paper emphasizes the importance of coordinated efforts and targeted support to enhance the role of industrial relations in promoting decent work in MSEs.

It is our hope that this Working Paper serves as a valuable resource for those engaged in shaping the future of industrial relations in MSEs, offering insights and guidance for policymakers, practitioners, and researchers alike.

This Working Paper is the outcome of joint collaboration between the Inclusive Labour Markets, Labour Relations and Working Conditions Branch (INWORK) and the Micro, Small and Medium Enterprises Branch (MSME).

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## ► Introduction

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Globally, MSEs account for the majority of enterprises and make crucial contributions to job creation and income generation. The ILO estimates that small economic units, i.e., MSEs and the self-employed, account for over two thirds of all jobs worldwide and generate most new jobs created (ILO 2019a). While significant research has been dedicated to the enormous potential of MSEs for employment generation and economic development, few studies have engaged with issues of decent work deficits (De Kok, Deijl and Veldhuis-Van Essen 2013; ILO 2015a; ILO 2021a; Schmid 2015). There is also a limited amount of research on industrial relations in MSEs (Barrett and Rainnie 2002).<sup>2</sup>

The Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189) is the only ILO recommendation that deals specifically with SMEs. It addresses the conditions for the promotion of SMEs and points to the importance of effective labour laws and regulations to raise the quality of employment and the compliance with International Labour Standards. It also recognizes that employers' and workers' organizations can contribute to the development of SMEs in a variety of ways, such as articulating to governments the concerns of SMEs and their workers; facilitating direct support services in areas such as training, consultancy, easier access to credit, marketing, advice on industrial relations and promoting linkages with larger enterprises; participating in councils, task forces and other bodies at national, regional and local levels to deal with important economic and social issues, policies and programmes affecting SMEs; and providing services and advice on workers' rights, labour laws and social protection for workers in SMEs, among others. In this light, Recommendation No. 108 calls on existing organizations of employers and workers to consider widening their membership base to include SME employers and workers and their organizations. The Recommendation draws the link between SME development, job quality, and industrial relations and underscores the role of industrial relations not only in improving job quality and employment conditions of SME workers, but also in generating positive business outcomes such as increased productivity, higher incomes and returns or business stability.

### Objectives of this working paper

This working paper provides an international review of the current state of knowledge on industrial relations in MSEs and focuses on four aspects: collective representation of workers, collective representation of employers, collective bargaining and social dialogue, and the legal and policy frameworks that influence the first three aspects. The working paper also analyses literature on working conditions in MSEs and provides recommendations to practitioners and policymakers for developing sound industrial relations in MSEs. Rather than focusing on micro, small and medium enterprises (MSMEs), a catch-all term for a heterogeneous grouping of enterprises, the working paper zooms in on micro and small enterprises as these are most often overlooked in discussions on industrial relations in MSMEs.

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<sup>2</sup> Industrial relations is defined as "individual and collective relations between workers and employers at work and arising from the work situation, as well as the relations between representatives of workers and employers at the industry and national levels, and their interaction with the state" (ILO 1996).

## Methodology

This working paper is based on a review of the available literature – journals and books by recognized academic and commercial publishers, official databases of international organizations, and grey literature, which is mostly written in English. So far, the bulk of the research undertaken on industrial relations in MSEs pertains to the EU countries, while the amount of literature written in English, French or Spanish from other regions is quite limited. The lack of research on industrial relations in MSEs imposes considerable limitations on this study and highlights the need for further research.

The working paper is structured as follows: Chapter 1 provides an overview of job quality and industrial relations dynamics in MSEs, followed by a review of the evidence on regulatory frameworks on industrial relations in MSEs in chapter 2. Chapters 3 and 4 review evidence on the collective representation of workers and of employers in MSEs, respectively. This is followed by an overview of key trends regarding collective bargaining and social dialogue in MSEs (chapter 5). The working paper closes with recommendations for policymakers as well as employers and workers organizations.

## ► 1 MSEs: Definitions, economic contributions and job quality

### Key takeaways

- MSEs constitute a highly heterogeneous group in terms of their size, the range of products and services offered, and the level of technology adoption.
- There are many different definitions of MSEs across industries, countries and regions. In general, definitions consider criteria such as the number of employees, total or net assets and annual sales turnover.
- MSEs make a substantial contribution to job creation. Together with the self-employed, MSEs with fewer than 50 employees account for more than 70 per cent of total employment worldwide. However, the majority of employment is in the informal sector.<sup>3</sup>
- The quality of jobs and employment conditions in MSEs is typically lower than that of large enterprises. This is due to several factors, including their low levels of productivity (which is partially dependent on the business environment); the limited reach of labour and social protection laws; and in some instances, the special exemptions from labour law and non-compliance with labour regulations.

### Variety of definitions

The definition of MSE varies across countries and regions.<sup>4</sup> The criteria most commonly used, either separately or combined, are the number of employees (in some cases differentiated by industry), the annual sales turnover and the value of total assets.

The most common criterion used in defining MSEs is the number of employees. MSEs are typically defined as having up to 49 employees (ILO 2015b). For instance, the ILO database on employment and economic unit size<sup>5</sup> distinguish three different size classes: microenterprises with 2 to 9 employees; small enterprises with 10 to 49 employees; and medium-sized and large enterprises with 50 or more employees<sup>6</sup> (ILO, 2019a: 7).

#### ► Box 1. Examples of MSE definitions

OECD's definition of MSEs		
	Firm size class	
Indicator	Micro	Small

<sup>3</sup> See the following report for the definition of MSEs used: Global evidence on the contribution to employment by the self-employed, micro-enterprises and SMEs. Available at: [https://www.ilo.org/global/publications/books/WCMS\\_723282/lang-en/index.htm](https://www.ilo.org/global/publications/books/WCMS_723282/lang-en/index.htm)

<sup>4</sup> For more information on the definition of MSEs in various countries, the MSME Economic Indicators Database of the International Finance Corporation collates the official country-level definitions of more than 176 countries.

<sup>5</sup> The database containing statistics on employment and economic unit size was constructed using the data set underlying the third edition of ILO, Women and Men in the Informal Economy: A Statistical Picture (ILO 2018a).

<sup>6</sup> Because of the wide divergence in how different countries report employment distribution, medium-sized and large enterprises have been grouped into a single category of enterprises with 50 or more employees.



Number of staff	<10	10-49
<b>India's definition of MSEs</b>		
	Firm size class	
Indicator	Micro	Small
Total assets in Indian rupee (INR)	Services: <1,000,000 Manufacturing: <2,500,000	Services: 1,000,000-20,000,000 Manufacturing: 2,500,000-50,000,000
<b>Kenya's definition of MSEs</b>		
	Firm size class	
Indicator	Micro	Small
Number of staff	1-9	10-49
<b>Peru's definition of MSEs</b>		
	Firm size class	
Indicator	Micro	Small
Annual turnover in Peruvian sol (PEN)	<592,500	592,500-6,715,000

Source: IFC, "MSME Economic Indicators", 2019; OECD, "Enterprises by Business Size".

MSEs include all types of enterprises, irrespective of their legal form (for example, family enterprises, sole proprietorships or cooperatives) and whether they are formal or informal enterprises. Recognizing the variety of definitions across countries, this working paper focuses on the analysis of industrial relations and social dialogue practices in MSEs, as they are defined in the specific country except when providing global estimates.<sup>7</sup>

## Contribution of MSEs to employment and value added

Based on the definition of MSEs, it is clear that they constitute a highly heterogeneous group. As such, it is important to recognize that the characteristics as well as needs of MSEs vary widely. For instance, a microenterprise operating in the informal services sector is different from a formal, small manufacturing firm or a young, high growth-oriented start-up operating in the tech industry. While recognizing the challenges of trying to analyse this heterogeneous group as a whole, this section attempts to provide an overview of common characteristics of MSEs based on available literature.

Together, MSEs account for the majority of enterprises in most developing countries – in some cases more than 90 per cent. MSEs make a substantial contribution to job creation and, together with the selfemployed, provide over two thirds of all jobs worldwide (ILO 2019a). In low- and middle-income countries, the combined share in total employment of the self-employed and workers in MSEs is as high as 80 to 90 per cent (ILO 2019a).

Global estimates of the contribution of MSEs to gross domestic product (GDP) do not always provide the full picture, as they often do not take into consideration the contributions of enterprises operating in the informal economy or microenterprises but focus only on formal enterprises. According to the International Finance Corporation (IFC), formal MSEs and medium-sized

<sup>7</sup> Global evidence on the contribution to employment by the self-employed, micro-enterprises and SMEs. Available at: [https://www.ilo.org/global/publications/books/WCMS\\_723282/lang-en/index.htm](https://www.ilo.org/global/publications/books/WCMS_723282/lang-en/index.htm)

enterprises contribute approximately 50 per cent of global GDP (IFC 2020). If both informal and formal enterprises are considered, MSEs and medium-sized enterprises account for 60 to 70 per cent of GDP globally according to the ILO (2015a).

The contribution of different segments of MSEs to employment and GDP differ considerably. In addition, a country's income level and the contribution of MSEs to national employment levels and GDP are related. The combined employment share of MSEs decreases as a country's income level rises, while similarly the employment share of the informal sector decreases as per capita income increases (ILO 2019a). In countries with a higher level of GDP per capita, enterprises tend to be larger in size and contribute more to GDP.

While MSEs' productivity levels differ based on their size and the sector in which they operate, MSEs are on average less productive than large firms (Bartelsman, Haltiwanger and Scarpetta 2013; Croucher et al. 2013; ILO 2015b; Marchese et al. 2019). In developing countries, the differences in productivity between enterprises of different sizes are further widened by the large share of informal MSEs, which face distinct productivity challenges. For example, after comparing formal and informal enterprises in 24 African countries, La Porta and Shleifer (2014) found that informal MSEs are on average 120 per cent less productive than formal ones. Similarly, women-led enterprises are typically less productive as a result of encountering a more adverse business environment in comparison with enterprises led by men (Islam et al. 2020), since they typically have less access to support services such as those in the areas of finance, technology and training, and are further constrained by factors such as discriminatory legal and property rights and social norms and culture (Carranza, Dhakal and Love 2018; De Mel et al. 2009).

Most MSEs face significant challenges to their growth and potential for value addition. The specific challenges vary with the local context (external factors) and the characteristics of the MSE (internal factors) and determine the enterprises' ability to grow and create quality jobs. In terms of external factors, MSEs tend to have more limited access to finance,<sup>8</sup> information, skilled labour and markets than larger firms (ILO 2015b; WTO 2016; Yoshino and Taghizadeh-Hesary 2016). Poor infrastructure, corruption and competition with the informal market are external factors that often rank as major constraints for MSEs (ILO 2015b). Moreover, regulatory environments (for example, taxation, loan facilities, business registration) also tend to be unfavourable to small enterprises. Many MSEs are further constrained by internal factors such as limited managerial skills and capacities and an inadequately educated workforce, which also limits their ability to absorb and make use of technology (Bloom and Van Reenen 2006; Marchese et al. 2019; ILO 2021c).

## Job quality and the nexus between MSEs and the informal economy

### Job quality and decent work deficits in MSEs

Despite the substantial employment contribution of MSEs, the quality of jobs and employment conditions are typically poorer in MSEs than in large enterprises (ILO 2021a; ILO 2015a; Serrano et al. 2010; Xhafa 2015). However, this is a research topic that has not been studied extensively (ILO 2015b). As a result, it is difficult to provide a nuanced picture of the employment conditions

<sup>8</sup> According to the IFC (2020), the unmet demand for credit of SMEs is estimated to be US\$4.5 trillion. Women-owned businesses, which are under-represented at all levels of the financial system, face an estimated credit gap of \$1.4 to \$1.7 trillion and must manage additional gender-related barriers when seeking to access capital (IFC 2022).

for workers employed by MSEs that captures the heterogeneity of this group and the different contexts in which they operate. Nonetheless, where data are available, “decent work deficits are generally more significant in SMEs than they are in large establishments” (ILO 2015a, 2).

Employees in MSEs tend to earn lower wages than employees in large enterprises (De Kok, Vroonhof and Verhoeven 2011; ILO 2016b; ILO 2018b) and work longer hours (Fenwick et al. 2007). In Europe, for example, the average gross hourly wage of workers with both lower and higher occupational skills in small is lower than that of their counterparts in large enterprises (250 or more workers)<sup>9</sup> (ILO 2016b, 72).

In addition, women workers, who are over-represented in MSEs, may suffer from both direct and indirect discrimination (Fenwick et al. 2007). The working environment is also typically more hazardous in small enterprises than in large ones (ILO 2018b; EU-OSHA 2016). In EU, for example, there is evidence that the occurrence of serious injuries and fatalities is proportionally greater in smaller firms compared to larger ones (EU-OSHA 2016).

Several factors contribute to the more pronounced deficits in employment and working conditions in MSEs. First, MSEs tend to be characterized by lower levels of productivity and limited administrative and financial capacities, which affects the capacity to comply with labour laws and social security legislation (ILO 2021a), leading them to operate in the informal economy. Moreover, the positive relationship between enterprise size and wage levels, i.e., the “size wage premium”, may be explained by factors such as labour productivity, the availability of financial resources and firm ownership (ILO 2016b; De Kok, Vroonhof and Verhoeven 2011). Similarly, the poorer occupational safety and health (OSH) arrangements and management in MSEs may be explained by “the weak economic position of many MSEs and the low investment they are able to make in OSH infrastructure; the limited knowledge, awareness and competence of their owner-managers in relation to both OSH and its regulatory requirements; limited capacity to manage their affairs systematically; and their attitudes and priorities, given the limited resources at their disposal and their concerns for the economic survival of their business, in which OSH has a low profile” (EU-OSHA, 2016, 10).

Decent work deficits may also be associated with the limited applicability of labour laws to MSEs in some countries, where MSEs are either excluded from or effectively beyond the reach of labour and social protection legislation (Fenwick et al. 2007; ILO 2021a; Reinecke and White 2004; Vargas 2020). Moreover, “in many cases States do little to apply or to enforce labour laws to MSEs in practice” (Fenwick et al., 2007, xi). Indeed, the highest levels of non-compliance with labour laws are found in micro and small enterprises (ILO, 2013: 3). According to Fenwick et al. (2007, xi),

►► *...in some cases, this is a result of legal design issues: administrative authorities are given too much discretion and too little guidance in its exercise; in some cases, the availability of discretion lends itself to corruption. In other cases, the labour administration is simply under-resourced or otherwise unable to address the challenge of applying and enforcing labour law to the very many (and very different) MSEs within their jurisdiction.*

The precarious and varied nature of work in MSEs also means that many workers do not have regular, full-time or “typical” work contracts, and are, as a result, invisible in the eyes of law (Fenwick et al. 2007). This situation is even more pronounced for workers in MSEs that operate

<sup>9</sup> In fact, 40 per cent of workers in the bottom wage decile work for firms with less than 50 employees, while only 20 per cent of those in the top 1 per cent work in smaller firms (ILO 2016b).

in the informal economy. MSEs operating in global supply chains may also be facing pressure to reduce costs by the main buyer/retailer and the principal firm that engages them (Anner 2020; ILO 2016a). Such pressure becomes more pronounced in the lower segments of supply chains, in which compliance with labour laws is often perceived by many MSEs as “imposing unsustainable regulatory burdens and costs” (Fenwick et al. 2007, xi; see also ILO 2013; Webster et al. 2008).

Recognizing the substantial contribution of MSEs to job creation, as well as the fact that decent work deficits are generally more significant in MSEs than they are in large enterprises, the conclusions concerning small and medium-sized enterprises and decent and productive employment creation adopted by the International Labour Conference in 2015 underscore the importance of an enabling environment to overcome the constraints faced by MSEs and their workers in creating decent and productive employment. The conclusions also emphasize the importance of collecting more data on the quality of employment in smaller enterprises.

## The nature of employment relations in MSEs

While initial research on employment relations in MSEs may have tended to oversimplify the employment relations in smaller enterprises (see for example Schumacher 1974), subsequent research has provided a more nuanced understanding of the situation in MSEs. In recent years, employment relations in MSEs have also been studied as part of the growing literature on human resource management or as part of the literature on management practices in MSEs and their impact on enterprise performance.<sup>10</sup>

In many MSEs, employers play a more visible and direct role at the workplace. They tend to be directly involved in the day-to-day operations of the enterprise and in making decisions relating to working conditions. The employer and workers often perceive their employment relations as a personal and direct relationship (Eurofound 2014; Kirton and Read 2007). Consequently, MSEs are less likely to have formal human resource management structures and practices compared with large enterprises (ILO 2018c; Foster and Farr 2016). In addition, employment relations sometimes rely on informality and socially embedded networks, such as family ties (Edwards and Ram 2019; Holten and Crouch 2014; ILO 2011). As a result, employers typically prefer informal, direct and individual ways of resolving possible conflicts at the workplace (Edwards and Ram 2019; Holten and Crouch 2014; Moore, Jefferys and Cours-Salies 2007) as these are defined as individual rather than collective problems (Kirton and Read 2007).

The informal nature of relationships between workers and employers in MSEs also shape employment relations. For employers, considerations of business viability play an important role. In a study by Nadin and Cassell (2007), employers reported that they were not being very prescriptive with employees out of fear that they would leave. The authors suggested that factors such as the close working environment, the prevalence of informal management practices and resource constraints make MSEs differ from larger enterprises, as those factors have an impact on the unspoken obligations and expectations between employers and workers. However, the authors emphasized that these conditions are not deterministic and there is scope for both employers and workers to exercise influence. Similarly, Ram and Edwards (2003, 721) suggest that workers may use different resources to actively bargain with their employers as they are not “passive recipients of management control”.

<sup>10</sup> See for example Bloom et al. (2013) and McKenzie and Woodruff (2017).

Goss (1991, 73–87) offers four types of employer control in small firms based on two dimensions—the extent of employer’s economic dependence upon employees and the ability of employees to resist employer decisions, as follows:

*‘Fraternalism’*. This strategy reflects a high level of employer dependence on employees whose skills are both essential to the business and in short supply. This is typical in certain high-tech or ‘professional’ small businesses, where differences between worker and boss are not stark and there are high levels of employee discretion and trust.

*‘Paternalism’*. This is common in the agricultural sector where there is a striking difference in the social status and material wealth between the (property-owning) employer and the wage workers who are heavily dependent on the employer for jobs and for their well-being in a broader sense (for example, housing, small loans). Paternalism tries to secure employee identification with the employer’s goals through strong personal relations and mutual duties that extend beyond the wage contract.

*‘Benevolent autocracy’*. Employers’ control emphasizes the proximity of employer and employees but only regarding the employment relationship and the workplace. In addition to the purely economic, the employer’s autocratic control is infused with some ‘social’ or personal elements – that is, “treating employees consciously as individuals, encouraging the use of first names, sharing of conversations and jokes” (Goss, p. 82). In this type of control, workers accept the imbalance of power between them and the employer as a fact of working life, and thus challenging the employer’s authority is not an option.

*‘Sweating’*: Here, cost rather than stability is the principal factor in the employment relationship. Employers have minimal dependence on workers who can be recruited and replaced readily without disrupting business activities. Employee resistance to control is thus difficult. This type of employer control is common in businesses with marginal market niches where demand is unpredictable. A weak and vulnerable workforce is an essential precondition for successful sweating.

Goss’s typology, although by no means exhaustive, illustrates “the complexity and diversity of employment relations” in MSEs and challenges the simple understanding that employment relations are “necessarily and essentially harmonious” in these enterprises (Goss 1991, 86). The type of employer control is influenced by factors, such as size, industry characteristics, technology utilization, type of products and services offered, the skills profile of workers, the business model and the characteristics of the business environment.

Barrett and Rainnie (2002) criticized the studies of Goss and others that focus on employment relations in MSEs as still homogenizing these businesses. This critique was also raised earlier by Wilkinson (1999), who suggested that further research should be undertaken to determine what factors influence employment relations, such as labour market influences, dependency, ownership, industrial subculture, technology and so on.

In New Zealand, while the overall finding of a survey involving 332 MSEs and medium-sized enterprises across sectors indicates that employers demonstrate some willingness to engage in forms of participation, “the majority of employers either consult but make the final decision or just inform employees of management decisions, suggesting that managerial prerogative still prevails” (Foster and Farr 2016, 55). The survey also underscored that individual participation in

determining the formal and informal rules and processes that regulate the employment relations appears to be more relevant in MSEs and medium-sized enterprises (Foster and Farr 2016). The authors further found that employers prefer to deal directly with employees (84.3 per cent) rather than with unions (0.6 per cent). Such preferences were more pronounced in microenterprises<sup>11</sup> (Foster and Farr 2016). In an earlier study, Kirton and Read (2007) point to informal and individualized employment relations among the barriers to unionization in MSEs.

In Chile, labour relations in MSEs display similarities with the kinship relationships that exist within a family (ILO 2011). Meanwhile, most of the employers in these enterprises follow a self-management, paternalistic model, without much emphasis on the motivation and commitment of workers (ILO 2011).

For EU countries, Eurofound (2014) underscores that “fraternalism” more accurately characterizes employment relations among MSEs that follow a “high road” business model. This model, according to Kochan (2006), focuses on good jobs and good wages (that is, above average pay), training and development opportunities for workers, employee discretion and autonomy, and a supportive environment in which employees may successfully balance work, family and personal responsibilities. Eurofound (2014) identifies ten MSEs across five EU countries that follow the high-road business model<sup>12</sup> and concludes that “there is an expectation that employees should be actively involved and consulted on measures to improve services and products” (Eurofound 2014, 55). This is illustrated through a high degree of autonomous work, delegation of tasks and responsibilities, and self-management. The study underscores that employees are a key factor of competitiveness: “owners and managers are committed to the idea that good working conditions, including pay levels that at least match the sector standard, that make a ‘motivating work environment’ and result in loyal and engaged employees, contribute significantly to the high quality of products and services” (Eurofound 2014, 56).

<sup>11</sup> A higher share of employers of microenterprises (< 9 employees) (34.6 per cent) reported this preference, compared to employers of small (10–19 employees) and medium-sized (20–49 employees) enterprises at 21 per cent each (Foster and Farr 2016, 44).

<sup>12</sup> Bulgaria, Denmark, Germany, Italy and Spain.

## ► 2 Regulatory frameworks on industrial relations in MSEs

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### Key takeaways

- Regulatory measures affecting MSEs do not tend to focus on labour issues and industrial relations.
- A number of labour law regimes either exclude enterprises of a certain size from the application of labour law or apply a different set of labour regulations.
- Recognizing the critical role of decent working conditions and sound industrial relations, governments in some countries have introduced policy and regulatory initiatives that extend protection and representation to all workers, including those employed in MSEs.
- Extending the application of labour laws and social protection to MSEs and putting in place innovative ways of improving compliance by MSEs strengthen the protection and voice of MSE workers.

### Legal frameworks on freedom of association in MSEs

The right to freedom of association is essential for workers and employers to defend their rights and articulate their interests. The Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) states in Article 2 that:

►► *Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorization.*

While the right to freedom of association is a fundamental right, legislation frequently establishes minimum membership requirements for the formal establishment of employers' or workers' organizations. Such requirements are compatible with the principles of freedom of association if the specified minimum is realistically attainable in all the relevant circumstances. However, minimum membership requirements must not act as a deterrent to the establishment of organizations in practice. For example, the Committee on Freedom of Association (CFA) has found that a minimum requirement of 20 members to establish a trade union (30 for a sectoral trade union) is compatible with the principles of freedom of association. The CFA has also found that a minimum membership requirement of ten employers in the same or related activities to establish an employers' organization is too high and violates the right of employers to establish organizations of their own choosing.<sup>13</sup> The CFA has indicated that:

►► *While a minimum membership requirement is not in itself incompatible with Convention No. 87, the number should be fixed in a reasonable manner so that the establishment*

<sup>13</sup> For country-level decisions, see ILO, *Freedom of Association: Compilation of Decisions of the Committee on Freedom of Association*, sixth edition, 2018, paras 435–447.



*of organizations is not hindered. What constitutes a reasonable number may vary according to the particular conditions in which a restriction is imposed.<sup>14</sup>*

A minimum number of workers to form a trade union, while not being incompatible with Convention No. 87, may limit the ability of workers to organize in systems dominated by small enterprises. In this regard, the right of workers to establish or join organizations “of their own choosing”, as the freedom of association is defined in Convention No. 87, includes the possibility for workers to directly join enterprise, industry, occupation or trade-based organizations, even simultaneously.<sup>15</sup>

The impact of excluding workers from the right to organize or from establishing a trade union of their choice is multidimensional. First, the legal requirements relating to the registration of a trade union are important factors that significantly impact the level of trade union membership. Moreover, the application of thresholds prevents a large number of workers from establishing trade unions and bargaining collectively. In turn, these workers are denied certain employment rights that are contingent on trade union recognition (for example, the right to time off for trade union duties, the right to disclosure of information for collective bargaining and the right to information and consultation about health and safety matters).

Recognizing the critical role of decent working conditions and sound industrial relations, governments in some countries have introduced policy and regulatory initiatives that extend protection and representation to all workers, including those employed in MSEs. This is done for example by specifically granting workers and economic units in the informal economy the right to organize in employers’ and workers’ organizations.

## Policy and regulatory frameworks: Scope, enforcement and compliance of labour standards in MSEs

The conclusions concerning small and medium-sized enterprises and decent and productive employment adopted by the International Labour Conference in 2015, refer to the following provision contained in Article 2(1) of the Labour Inspection Convention, 1947 (No. 81) to underscore the role of government in ensuring the enforcement of labour standards in SMEs:

► *The system of labour inspection in industrial workplaces shall apply to all workplaces in respect of which legal provisions relating to conditions of work and the protection of workers while engaged in their work are enforceable by labour inspectors.*

Studying the application of labour and labour-related laws in MSEs in 14 countries,<sup>16</sup> Fenwick et al. (2007) find that only in few countries are small enterprises covered by the entire body of labour law. Coverage ranged from full application of labour laws to the complete exclusion of MSEs, and most countries excluded microenterprises from at least some elements of their labour law. The ILO (2018b) suggests that the rationale behind the exclusion of MSEs from particular provisions of labour law relates primarily to the costs associated with labour law compliance, such as consultation structures and the ability of MSEs to bear such costs. However, the ILO study also concludes that not applying labour law to smaller firms may leave their workers “with little or no

<sup>14</sup> ILO, Freedom of Association: Compilation of Decisions of the Committee on Freedom of Association, para. 441.

<sup>15</sup> For country-level decisions, see ILO, Freedom of Association: Compilation of Decisions of the Committee on Freedom of Association, paras 546–550.

<sup>16</sup> Brazil, Chile, China, Denmark, Hungary, Indonesia, Kenya, Namibia, Nepal, Peru, the Philippines, South Africa, Thailand and Viet Nam.



protection of their fundamental and other rights at work” (ILO 2018b, 10) and may also create unfair competition and a race to the bottom among enterprises.

Fenwick et al. (2007) highlight that there is little evidence suggesting that the exclusion of MSEs from labour laws or restraining from applying them in practice would have a positive impact on their growth nor influence their decision to formalize. Instead, Fenwick et al. suggest that this type of approach fails to consider the benefits that can stem from complying with labour laws, including the development of a more productive workforce. The authors share evidence presented by the ILO and the OECD that suggests that MSEs do not consider compliance with labour laws to be a major constraint to their growth; however, they also refer to other studies showing that MSEs are only able or willing to comply with selected elements of the regulatory environment. Based on those findings, the authors suggest that MSEs would respond to more innovative regulatory approaches targeting them specifically (Fenwick et al. 2007).

Fenwick et al. (2007) proceed to identify a number of innovative regulatory approaches that countries have adopted to try to achieve the goal of applying labour and labour-related laws to MSEs without imposing significant costs upon them. For instance, some countries have adopted legislative measures to redefine the scope of the employment relationship in broader terms. Others have taken a “staged” approach, for example by gradually extending the scope of social security schemes to include MSEs over time. Several countries have developed special agencies or units within their labour administration responsible for the promotion of labour law and its application to MSEs.

Innovative approaches also include developing enforcement strategies that take into account the characteristics of MSEs, including education and information campaigns, targeted inspections and the substitution of training for the imposition of fines in instances of non-compliance by MSEs. Many of these strategies are built around the need to overcome the low levels of legal literacy of both workers and employers. A number of countries have also been able to develop strategic mechanisms and approaches for the application of labour law, including the establishment of regional trade union representation schemes, where MSEs otherwise fall below relevant numerical thresholds.

More recently, Vargas (2020) identified three approaches in the application of labour laws to MSEs: (a) equal application (China); (b) the equal application of labour laws, albeit with selective exclusions (Egypt, Germany, Mexico, Nepal, the Russian Federation, South Africa, Spain, Sri Lanka, Sweden, Turkey and the United Republic of Tanzania); and (c) special regimes (Brazil, Colombia, Costa Rica and Peru). Among the most common exclusions of the selective exclusion and special regimes are the requirement to set up an OSH committee or to appoint OSH delegates (Vargas 2020). Such exclusion can be problematic in the context of a tendency toward more precarious OSH situation of workers in MSEs. Moreover, in 2022, the International Labour Conference designated the [Occupational Safety and Health Convention, 1981 \(No. 155\)](#) and the [Promotional Framework for Occupational Safety and Health Convention, 2006 \(No. 187\)](#) as fundamental Conventions. Meanwhile, in special regimes (such as parallel labour laws), enterprises below a certain threshold size are subject to parallel labour laws with lower standards (Vargas 2020, 14). Without going into the details of how many rights are denied or downgraded, the most important question to be addressed is “the way in which these affect the promotion of fundamental rights and the enhancement of basic working conditions” (Vargas 2020, 14). Medium-sized enterprises are rarely excluded from the application of labour laws.

Vargas (2020) notes a general trend over the past 15 years of extending the coverage of labour laws to MSEs in several countries, as was the case for the reforms adopted in Brazil, Colombia,

Egypt, Germany, Nepal, Spain and Viet Nam.<sup>17</sup> Some other countries have sought to bring more workers under the protection of the labour law by establishing clear criteria for the existence of an employment relationship. For example, in Morocco, the Labour Code of 2004 specifically includes groups of workers that are often unprotected, such as salespersons and homeworkers. In Japan, the definition of a “worker” in the Labour Standards Law is “one who is employed at an enterprise or place of business and receives wages therefrom, without regard to the kind of occupation”. This definition is also applied in the Minimum Wage Law, the Occupational Health and Safety and Health Law, the Workers’ Accidents Compensation Insurance Law and other laws related to the Labour Standards Law. As a result, MSE workers in Japan are covered by these labour standards.

► **Box 2: Chile: Act on Subcontracting**

Chile’s Act on Subcontracting, which was adopted in 2006 and took effect in 2007, requires the enterprise (that is, the enterprise issuing instructions) to look into the effective compliance with labour and social insurance obligations by the contractor or subcontractor and to protect the life and health of all workers engaged in the work that it controls – who are often hired by MSEs. The principal enterprise also has direct responsibility for OSH issues, which is important in such sectors as construction.

The principal enterprise is entitled to obtain information on the compliance of contractors and subcontractors with their labour and social security obligations by means of a certificate validated by the Department of Labour and issued by PreviRed,<sup>18</sup> as well as to retain payments or make payments by subrogation in the event of their non-compliance.

In 2013 – six years since the Act’s implementation – the number of contributors to individual pension accounts and to health insurance has increased substantially and the number of employment injuries has fallen significantly in the informal economy. For example, the number of formalized employees in the construction sector, relative to the six years prior to its application, has increased by 19 to 105 per cent, while in the commerce sector it has increased by 4 to 24 per cent and in the industry sector it has increased by 12 to 54 per cent.

Source: ILO, *Formalization: The Case of Chile* (2019), 25–26.

Various countries have taken measures to ensure the enforcement of labour standards in MSEs. In Peru, the General Labour Inspection Law was amended to guarantee the confidentiality of complaints, while strengthening inspector’s power and extending their scope of action to worker cooperatives and homework employment agencies (Daza 2005, 47). In Brazil, Law 8864 gives MSEs simplified treatment. Article 16 of the law encourages the Executive to “establish simplified procedures to facilitate compliance with pension and labour legislation” of these enterprises (ILO 2005). In addition, countries in Latin America have adopted special simplified tax regimes to promote smaller enterprises’ compliance with labour laws (Vargas 2020).

<sup>17</sup> See ILO, NATLEX, “[Viet Nam: General Provisions](#)”.

<sup>18</sup> PreviRed is an online platform created for the purpose of electronically declaring and/or paying the social insurance contributions of enterprises, employers operating in their own homes and own-account workers, through a single or integrated payment. It brings together contributions for pensions, health, employment injury, family allowances and unemployment insurance, and automatically calculates their amount for each worker and each payroll or workforce.

**► Box 3: Philippines: Labour standards enforcement in microenterprises**

In the Philippines, the Department of Labor and Employment (DOLE) issued Department Order No. 238 in April 2023, which established eight priority establishments for inspection, including those establishments engaged in hazardous work, those that employ children and/or women, and those engaged in contracting and subcontracting arrangements.

The new rules list<sup>19</sup> three approaches to labour standards administration and enforcement: (a) technical and advisory visit; (b) labour inspection; and (c) OSH investigation. Microenterprises employing less than ten workers are subjected to the technical and advisory visits. The technical and advisory services provided by the labour inspector include general labour standards, OSH standards, a productivity toolbox, child and family welfare programmes, and other DOLE policies and programmes.

Microenterprises are required to prepare an action plan indicating the interventions and further technical assistance needed to address identified compliance gaps and must correct the identified non-compliances within three months from the date of receipt of the action plan. Compliance with the action plan is monitored by labour inspectors through telephone, mobile phone and various online communication platforms. At the end of the three-month period, the labour inspector visits the enterprise to validate the action plan and determine compliance gaps.

<sup>19</sup> See Philippines, DOLE website.

### ► 3 Collective representation of workers in MSEs: Patterns, determinants and innovations

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#### Key takeaways

- Outside the EU, unionization and worker representation in MSEs is generally weak or non-existent.
- This “representation gap” may be attributed to various factors: the nature of employment relations, with high levels of vulnerability; management practices; regulatory frameworks for workers’ voices and representation that exclude workers in MSEs; the limited capacities and mandates of existing trade unions to reach out to workers in MSEs; and the limited capacities of administrative mechanisms to ensure compliance.
- MSE employers that follow a high-road business model are more likely to have good workplace relations.
- There is a diverse landscape of worker representation systems in MSEs, including those employed in the informal sector.
- Especially in the EU, there appears to be a link between numerical requirements or thresholds for union organization or registration and union density in MSEs: in countries with a numerical requirement to form a union, it is more likely that union density in MSEs is low.
- Some trade unions have extended their mandates to reach out to workers in the informal sector or have cooperated with organizations representing workers in the informal economy.

#### Union representation gap in MSEs: Key factors that affect collective representations

With the exception of some European countries, MSEs are generally marked by weak unionization and a lack of worker representation (De Troyer and Le Lay 2007; Holten and Crouch 2014; ILO 2015b). The union “representation gap” in the MSEs is more pronounced among workers in informal employment, which includes workers in informal MSEs and those who are in non-standard forms of employment (that is, temporary employment, part-time and on-call work, multi-party employment relationships or disguised employment/dependent self-employment), who may also be employed in formal MSEs. Statistical evidence shows that workers in non-standard employment, especially temporary agency workers, have a lower rate of unionization (ILO 2016a, 214).

The collective representation of workers in MSEs is shaped by the interplay between the generally vulnerable nature of employment relations in these enterprises and the extent to which the regulatory framework can establish some sort of a balance in the power relations between workers and employers. Other factors that negatively influence collective representation include weak knowledge of the statutory rights of vulnerable workers, limited capacities of the existing trade unions – or lack of mandate – to reach out to workers in MSEs, and weak capacity of the labour administration to ensure compliance of existing regulations. Some of these factors are discussed below.

## Regulatory frameworks for monitoring the voice and collective representation of workers in MSEs

The collective representation of workers in MSEs is directly affected by the existing legal frameworks that foresee the creation of mechanisms for workers' participation in their decision-making. This includes the creation of mechanisms to establish workers' representation in the undertakings and to inform and consult employees, which have taken many forms in the various countries and regions.

In the EU, the regulatory framework governing the collective representation of workers in MSEs is shaped by EU Directive 2002/14/EC, which established a general framework for informing and consulting employees in the European Community on employment-related matters covering enterprises with more than 50 employees. Most EU countries have adopted lower thresholds, as is the case for Spain, Denmark and Luxembourg. In Denmark, the threshold was reduced to 35 workers as a result of a collective agreement. In Luxembourg, the threshold was reduced to firms with more than 15 employees. In only a few countries, namely Austria, Germany and (with representatives having only limited rights) Estonia and Slovakia, are microenterprises covered by national legislation on employee representation structures (Eurofound 2014, 10). In many countries, there are no thresholds for establishing trade unions or shop stewards as mechanisms for workers representation. At the same time, smaller enterprises are also characterized by rather weak trade union organization coverage, with the exception of those in Denmark, Norway and Sweden (Eurofound 2014, 10). In Chile, non-unionized employees in enterprises in which trade unions can be created – that is, companies of eight or more employees – may elect a “staff delegate”.<sup>20</sup>

In the Republic of Korea, the Act on the Promotion of Workers' Participation and Cooperation mandates the establishment of a labour-management council (LMC) in all establishments or workplaces with 30 or more full-time workers, regardless of the existence of a labour union.<sup>21</sup> Kim (2014, 155) stresses that “LMCs are central to Korea's institutional mechanisms for worker participation” and to employment relationships in non-unionized workplaces. As most MSEs in the Republic of Korea are non-unionized, LMCs act as the only bodies that represent worker interests in MSEs. A relatively high proportion of LMCs in establishments with up to 99 workers and with 100 to 299 workers discuss wage determination, job reallocation, issues related to the employment of non-standard workers, early retirement, lay-offs, and changes to human resource management and assessment (Kim 2014, 155). Overall, through LMCs, communication, interaction, participation and engagement between employers and employees is more likely practised in smaller enterprises.

In the Philippines, the Productivity Incentives Act of 1990 encourages the voluntary establishment of a labour-management committee in non-unionized establishments, including MSEs and medium-sized enterprises (SMEs). The labour-management committee is a consultative and negotiating body that is composed of an equal number of representatives from management and rank-and-file employees. It is created to establish a productivity incentive programme. Over the years, many such committees have evolved to deal with not only productivity incentive programmes but also employment-related issues and labour-management relations (Serrano unpublished).

<sup>20</sup> Chile, Labour Code, Title II, Staff Delegate.

<sup>21</sup> In the Republic of Korea, a microenterprise is defined as an enterprise employing nine people or less (in the service industry, four people or less); a small-sized enterprise is an enterprise that has an annual sales revenue less than 1 to 12 billion won (₩) (the threshold varies with industry), including microenterprises; and a medium-sized enterprise is an enterprise that is bigger than a small-sized enterprise and has annual sales revenue less than ₩40 to 150 billion (Republic of Korea, Ministry of SMEs and Startups, “Policy Targets”).

For example, more than half of the 162 collective bargaining agreements registered in 2018 stipulated the creation of labour-management committees that dealt with job enrichment, the reduction of monotony at work, merit increases and industrial peace (Philippines 2021, 5).

As noted above, the right to freedom of association for MSE workers is significantly influenced by the numerical thresholds for the formation of unions, as established in legal frameworks. In the EU, social dialogue in MSEs is still quite narrow in scope due to both the organizational features and the regulatory framework, which often restricts access to trade unions and the establishment of employee representatives (Eurofound 2014, 43). The analysis of national contributions in the Eurofound study shows that the legislative regulations in 6 of 28 countries do not provide for any social dialogue structures in micro companies. The study states that “the analysis of regulatory changes since 2008 also indicated that EU Member States moved in different directions ... Greece and Cyprus removed or lowered the threshold for employee representation, especially on OSH issues, and Slovenia made it compulsory regardless of company size and trade union presence, Romania and Hungary restricted the scope for employee representation at small and especially micro businesses”. Other countries, such as Germany and Estonia, have included non-permanent employees, regardless of the company size, for eligibility to the works council, the mechanisms for information and consultation at the workplace. “In Norway and Italy, the social partners widened the scope for territorial-level OSH workers’ representatives as a way to improve both employees’ protection and enterprises’ quality standards without subjecting firms to further administrative burden, while in France the government hampered social partners’ efforts to promote territorial-level social dialogue” (Eurofound 2014, 43).

Based on the information provided in the Eurofound study, there appears to be a link between numerical requirements or thresholds for union organization or registration and union density in MSEs in EU countries. In countries in which there is a numerical requirement to form a union, it is more likely that union density in MSEs will be very low. This pattern is very evident in several Central and Eastern European countries, such as Czechia, Estonia, Latvia, Poland and Romania. Other countries included in this pattern are Cyprus and the United Kingdom. Union membership ranges from almost none in Romania to 37 per cent (microenterprises) and 56 per cent (small enterprises) of employees in Norway (Eurofound 2014, 85–87).

Similarly, in most Latin American countries, in which enterprise-based unionism and bargaining is the norm, the minimum number of members required by law for union formation, which ranges from 10 to 40,<sup>22</sup> may effectively restrict a union from being organized in MSEs (ILO 2005) even if trade unions can be established at the sectoral level or industrial branches, as is the case in Argentina, Brazil and Uruguay (Vargas 2020).

Several Association of Southeast Asian Nations countries also apply numerical thresholds for union formation. For example, Indonesia’s Trade Union/Labour Union Act 21/2000 requires at least 10 employees to form a union. Similarly, Thailand’s Labor Relations Act of 1975 stipulates that at least 10 workers are required to form a union in the private sector. In Viet Nam, the Labour Code requires the setting up of a union in establishments with 10 or more employees, and at least five workers are union members. When combined with the dominant model of enterprise-level unionism, such thresholds have a restrictive effect on the organization of worker unions in MSEs.

These thresholds, however, may be less of a challenge in robust systems of industrial relations that are characterized by a high level of collective organization, extensive collective bargaining

<sup>22</sup> Argentina (10); Bolivarian Republic of Venezuela, Dominican Republic, Guatemala, Mexico, Peru, Plurinational State of Bolivia (20); Chile (8); Colombia (25); Costa Rica (12); Ecuador, Honduras, Paraguay (30); El Salvador (35); Panama (40) (ILO 2005; Vargas 2020).

coverage and the widespread use of tripartite social dialogue (Holten and Crouch 2014, 276). For example, despite a threshold of five members for union formation, the union density in Denmark, including in MSEs, is relatively high.<sup>23</sup> This also underscores the importance of regional and national legal frameworks on employee representation and information and consultation for extending collective representation to MSEs. The industrial relations systems of countries such as Denmark, however, are an exception. In most countries, there is a significant union representation gap for MSE workers.

Finally, the regulatory framework may deny full access to workers' rights for some groups of workers due to the nature of their employment. For example, workers with contracts shorter than six months in Viet Nam cannot join a union; self-employed workers in Poland are excluded from the right to join a union; and outsourced or subcontracted workers in Indonesia are not allowed to join unions of regular workers (TUCA and ITUC 2015).

## Responding to union representation gap in MSEs: Forms of collective representation and action

As discussed in the section above, workers seeking to organize in MSEs face a challenging context in many countries. In addition, trade unions face their own challenges in organizing workers in MSEs (Kirton and Read 2007; Serrano and Xhafa 2010; Xhafa 2007). More than half of the workers interviewed in a survey conducted by Webster et al. (2008) reported that they had never heard of a union in their sector while more than two thirds reported that there had been no attempt to organize workers in their enterprise.

Nonetheless, in the context of declining union membership and as part of their renewal strategies that embrace a more inclusive representation, many trade unions have reached out to non-standard workers in the formal sector as well as workers in the informal sector, where the majority of MSE workers are found in many countries (ILO 2019a).

A study by Serrano et al. (2010), which involves a small survey of workers in MSEs in 11 countries,<sup>24</sup> identified several critical organizing themes that could serve as entry points for collective representation and for enhancing the willingness of workers in micro and small enterprises to organize or join a union. These include minimum wages, work and income stability, social protection, skills training and upgrading, and safety at work.

### ► Box 4: Minimum wage and health and safety as organizing themes in MSEs

In the Republic of Korea, after the economic crisis of 1997, some unions attempted to organize workers in SMEs by combining their organizing strategy with minimum wage issues (Yun 2014). Specifically, the Korean Confederation of Trade Unions (KCTU) organized and empowered contract cleaners, who are employed mainly in MSEs, by launching a minimum wage campaign that also targeted non-standard workers of SMEs in industrial complexes that are often located at the lower end of a production chain.

<sup>23</sup> In Denmark, SMEs are relatively large and employ 5.1 people on average, indicating that such a threshold would have less impact on the ability of most workers to form a union; see European Commission, "SBA Fact Sheet — Denmark", 2019.

<sup>24</sup> Albania, Barbados, Brazil, Colombia, India, Japan, Nigeria, Philippines, Republic of Korea, Turkey, Ukraine.



Health and safety are increasingly being perceived as more prominent workplace issues and as a basis for membership recruitment. Trade unions in a number of EU countries (Denmark, France, Greece, Italy, Spain, Sweden and the United Kingdom) attempted a number of strategies to achieve greater representation and participation of workers in OSH areas in small enterprises, including by obtaining statutory rights to represent workers in small enterprises through regional or territorial OSH representatives; adopting schemes in which sectoral joint or tripartite structures are set up to support workers and their employers in small enterprises; and either voluntarily or statutorily collaborating with the labour inspectorate/OSH authorities (Walters 2004).

Based on the results of ten case studies that looked into how trade unions address the protection and representation gap of selected groups of workers in informal employment in nine countries, Serrano and Xhafa (2016) found that trade unions have used a combination of strategies to bring workers in precarious informal employment, including workers employed by MSEs, into existing and/or new regulatory frameworks, thus providing them with more “protected employment”. Trade unions that organize nonstandard workers focused on workplace issues (that is, the improvement of the terms of employment and working conditions of workers), while unions that organize workers in the informal sector cover broader issues that may include social protection, access to quality public services, and representation in city/municipality planning. The authors highlighted the “positive transitioning effect” of trade unions — namely, “the capacity of unions to accord more ‘protected employment’ to workers in precarious informal employment and to contain the expansion of this type of employment” (Serrano and Xhafa 2016, 39). This positive transitioning effect is influenced by several factors: the legal framework, economic and social protection measures beyond the labour law, the trade union’s organization structures and processes, and the trade union’s strategies and measures.

► **Box 5: Union representation of workers in informal employment**

In Benin, the Confederation of Autonomous Trade Unions of Benin and the National Union of Workers’ Unions of Benin engaged with small informal craft businesses (hairdressers, tailors, weavers, traders and dry cleaners). Aside from expanding access to union membership, information and training campaigns on OSH issues were provided to informal workers in these enterprises. Hairdressers, tailors and caterers were also organized into cooperatives to improve their working and living conditions, as well as to explore options for enterprise growth and productivity (ILO 2019c).

In Chile, the National Confederation of Textile Workers (CONTEXTIL) included home-based textile workers in addition to traditional textile worker unions in manufacturing companies. CONTEXTIL supports traditional workers in SMEs to implement entitlements in the area of health insurance and pensions, collective bargaining and the right to strike. In addition, CONTEXTIL also supports homebased workers who work alone or in groups for one or more client companies. These flexible forms of union organization have expanded CONTEXTIL’s scope of representation to include those in the informal economy (ILO 2019c).

The General Federation of Nepalese Trade Unions, in collaboration with the NGO Public Health Concerned Trust, started a health cooperative clinic in 2000 as a result of the unaffordability of health care for most of the union’s worker-members in the informal sector (Frye 2005).



The collective representation of workers in informal employment takes a wide variety of forms, such as workers' associations, trade unions, membership-based community organizations, worker cooperatives, worker centres and others (Xhafa and Serrano forthcoming). These organizations may be stand-alone forms of representation, such as enterprise- or community-based unions, worker cooperatives or worker associations, or forms of representation affiliated to higher-level organizations at national and international level (mainly trade unions). Worker associations appear to be the most common form of collective representation among workers in MSEs that belong to the informal sector. Often, the organization of these workers is supported or initiated by labour-support NGOs. For example, in India, the NGO Labour Education Research Network (LEARN) supported the *Mahila Kaamgar Sanghathana* in organizing home-based workers, informal garment factory workers, domestic workers, waste pickers and street vendors. The women's organization CECAM in Chile supported the establishment of a union for the home-based women workers processing seaweed. NGOs may also play an important role in the case of migrant workers (Xhafa and Serrano forthcoming). In countries with a significant informal sector, workers' organizations are often not occupation-specific but instead represent various groups of workers in informal employment (Xhafa and Serrano forthcoming). In Nigeria, the membership of the National Federation of Informal Economy Organizations is composed of informal workers in transport, construction, trade, security, garment, catering, and mechanics and allied sectors. In India, the membership of the Self-Employed Women's Association is composed of home-based workers, informal garment factory workers, domestic workers, waste pickers and street vendors. In Guatemala, *La Confederacion de Union Sindical* represents cycle taxis, taxi drivers, traders, market vendors and middlemen. In the Philippines, the National Network of Informal Networks in the Philippines includes home-based workers (own-account and subcontracted), vendors, construction workers and transport workers. These forms of representation gathering various categories of workers may be a way for these groups of workers to gain bargaining power by consolidating their numbers.

The examples of initiatives taken by workers in informal employment to organize, which are either initiated or supported by trade unions, involve going beyond traditional associational practices and strategies. Trade unions that directly organize or support the organization of certain groups of informal sector workers are more likely to follow the repertoire of action of grass-roots-oriented and community-based peoples' organizations (for example, through the combination of campaigns, political action, vigils, rallies, demonstrations, petition drives, statements to and in public media and the distribution of pamphlets). Their organizing strategies and forms of collective action are similar to those used by informal sector workers in organizing themselves or by NGOs that initiate or support the organizing of these workers. Increasingly unions are also using new technology such as smartphones and social media as tools for organizing (ILO, 2019c; ILO 2022a).

## ► 4 Collective representation of employers in MSEs: Determinants, patterns and innovations

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### Key takeaways

- MSEs are less likely to be a member of an EBMO than their larger counterparts.
- Services offered, membership fees, market conditions, national legal frameworks on industrial relations, and union pressure influence MSE employers to associate or join EBMOs. The strategies of employers' associations to attract MSE employers as well as national regulatory and policy frameworks also play a role.
- Many EBMOs have extended interest representation to SMEs and have increasingly included collective bargaining among their functions.
- Microenterprises are generally not likely to be a member of an EBMO. Similarly, MSEs in the informal sector are rarely members of employers' organizations.

### Association of MSE employers with EBMOs and employers' organizations: Is there a gap?

Although there is very little data on the membership of MSEs in EBMOs, available evidence finds that MSEs are less likely to be a member of an EBMO than their larger counterparts (OECD 2017b; Eurofound and Cedefop 2020). There are of course exceptions, such as in Portugal where employers' associations organize mostly SMEs (Hayter and Visser 2018).

Limited resources tend to impede the ability of MSEs to join EBMOs (ILO 2018c). According to the IOE (2015), resource-strapped SMEs may choose to temporarily join an EBMO to resolve a particular issue and then leave again once the necessary assistance has been received. While the turnover may constitute a cost for the employers' organization, the IOE highlights the importance of representativity and suggests that investing in the recruitment and retainment of SMEs is worthwhile.

In most OECD countries, EBMOs are more representative of large firms. Data gathered in 2013 reveals that the incidence of membership of small firms (those with less than 50 employees) in EBMOs was about 37 per cent and that of medium-sized firms (those with 50 to 249 employees) was also about 37 per cent (OECD, 2017b: 136). According to the 2019 European Company Survey (ECS), a similar pattern can be observed for Europe: whereas 53 per cent of large establishments are members of an EBMO, the proportion is lower for medium-sized (34 per cent) and small (27 per cent) enterprises (Eurofound and Cedefop 2020, 113). The degree of informality in the economy also has an impact on the level of affiliation of MSEs with EBMOs, which typically affiliate with and represent formal enterprises. The survey also found that in those countries in which official structures for employee representation are more prevalent, enterprises are also considerably more likely to be a member of an EBMOs.

The ILO's recent flagship publication Social Dialogue Report 2022: Collective Bargaining for an Inclusive, Sustainable, and Resilient Recovery confirms that membership in EBMOs has remained

relatively stable in recent years among 25 countries<sup>25</sup> for which data are available. Their organization density ranges from 15.1 per cent of enterprises in the Republic of Korea to 100 per cent in Austria, where affiliation is mandatory (ILO 2022a, 19). The ILO also reports that just under half (46 per cent) of peak interprofessional EBMOs<sup>26</sup> have been involved directly in collective bargaining at the interprofessional level in the past five years (ILO 2022a, 19). EBMO density<sup>27</sup>, on average in the 26 OECD countries for which data is available, is 51 per cent (OECD 2017b, 135). EBMO density varies considerably across OECD and EU accession countries: it is very low in Central and Eastern European countries, the Republic of Korea and Turkey, but reaches as high as 80 per cent in the Netherlands, Sweden, Belgium, and Luxembourg (OECD 2017). EBMOs tend to represent a higher proportion of enterprises in manufacturing and construction than in services.

Many EBMOs have also increasingly included collective bargaining among their functions ILO (2022a). An ILO survey<sup>28</sup> conducted in April and May 2021 underscores their important role in organizing interest representation and collective bargaining and its outcomes. EBMOs also perform the following roles and functions in relation to collective bargaining: (a) offering services such as providing information on wage and productivity developments (76 per cent of respondents); (b) engaging in policy and regulatory debates on collective bargaining (69 per cent); (c) providing legal advice on regulations and procedures (57 per cent); and (d) organizing training on topics such as negotiation skills (54 per cent) (ILO 2022a, 19). The survey also identified the barriers and difficulties that EBMOs face in collective bargaining, including the process itself and the machinery established for bargaining.

## Strengthening the representation of MSE employers: Main facilitating factors

There are several factors that may influence the employers of MSEs to associate with or join EBMOs. These include employers' associations' strategies to attract MSE employers, as well as what may be considered external factors, such as challenging market conditions or pressure from workers organizing collectively. National regulatory and policy frameworks, which create an enabling environment for a sectoral "culture" of industrial relations and social dialogue, also play a role and will be discussed in section 5 below.

Including the interest representation of MSEs in existing EBMOs may serve as an important facilitating factor. For example, the Ghana Employers' Association (GEA) expanded its representation to smaller enterprises and informal businesses by establishing a category of membership for these enterprises and assigning a seat in its governing council to the Council for Indigenous Businesses Associations (CIBA), an umbrella body of 15 business associations of informal entrepreneurs, comprising hairdressers, dressmakers, garage operators, indigenous caterers, refrigeration technicians and masons, among others. The GEA works with the leaders of CIBA, policy-makers and the ILO in facilitating the transition of informal businesses to formality in line with Ghana's national informal economy road map for transition (GEA website; ILO 2020a).

<sup>25</sup> These countries are the following: Australia, Sweden, Netherlands, Belgium, Luxembourg, France, Spain, Norway, Finland, Czechia, Portugal, Italy, Denmark, Ireland, Germany, Greece, Slovenia, Slovakia, United Kingdom, Estonia, Poland, Republic of Korea, Latvia, Israel, and Hungary.

<sup>26</sup> Peak interprofessional EBMOs are national-level EBMOs that have affiliated member associations across sectors and subnational territorial organizations.

<sup>27</sup> Defined as the share of employees in the private sector working in firms that are affiliated with an employers' organization.

<sup>28</sup> The survey covered 70 EBMOs in 70 countries.

Interest representation remains an important factor for MSEs and they may also decide to set up their own representation organizations. In some countries, specialized EBMOs exclusively for MSEs have been established (ILO 2022). In France, the Confederation of Small and Medium Enterprises (CPME) is the employers' organization of SMEs for the industry, services, commerce, crafts and liberal professions. In 2018, the CPME claimed membership of 150,000 SMEs from 200 federations and 117 territorial organizations. As one of the national representative inter-professional organizations of employers in France, the CPME sits in the High Council for Social Dialogue. It represents SMEs in joint negotiations and with public authorities in France and internationally. Through its office in Brussels, the CPME mobilizes to make itself heard in the European Union.<sup>29</sup> The CPME also participates in national negotiations.

In Spain, the Spanish Confederation of Small and Medium Enterprises (CEPYME) is a national and intersectoral business organization that represents and promotes the interests of SMEs and the selfemployed. The CEPYME is recognized as the most representative business organization at the state level and engages in tripartite and bipartite social dialogue. In 2021, along with the General Workers' Union, the Workers' Commissions and the Confederación Española de Organizaciones Empresariales, the CEPYME signed a number of tripartite social accords (Spain 2022). It also participated in a series of meetings and dialogue between the government and the social partners on the labour reform that culminated in a tripartite agreement on 23 December 2021 (Spain 2022, 231).

Similar cases may also be observed in several Latin American countries. For example, the Association of SME Chambers of Peru was founded at the initiative of the Confederation of Private Business Institutions of Peru (CONFIEP), the most representative employers' organization. This entity also created within its structure a small business committee, whose president is the same as that of the Association (CONFIEP 2023).

Similarly, EBMOs providing services to enhance the compliance of MSEs with labour laws may be another facilitating factor. In the Philippines, the Employers Confederation of the Philippines (ECOP) embarked on a project entitled "Expanding the Reach of the Labour Laws Compliance System by Capacitating Business Membership Organization (BMOs) and ECOP Chapters" from 2016 to 2018. The project aimed at developing tools that facilitate the understanding and implementation of the country's Labour Laws Compliance System at the enterprise level, especially among SMEs. These tools include training programmes on social dialogue mechanisms that promote labour law compliance and the documentation of best practices on labour law compliance (ECOP 2018). Similarly, the Bulgarian Industrial Association, the biggest EBMO in Bulgaria, has expanded its reach to small enterprises by providing them a range of practical support services to help them comply with newly adopted labour and social security legislation (ILO 2018b).

Finally, there are other factors that may motivate MSE employers to associate. In China, cases of employer coordination and self-regulation and the growth of trade associations among small private enterprises were motivated by employers' need to address intra-firm competition that was leading to rising labour costs and conflicts (Wen and Lin 2015). Such a strategy was also important to counter the destructive underbidding of prices, protect product quality and safeguard the local brand reputation (Wen and Lin 2015; Lee et al. 2016). In Xinhe county in Wenling city, where the vast majority of factories are small and household-based, the employers established the Xinhe Woollen Sweater Trade Association in 2000, followed by the Wenling Woollen Sweater Trade Association in 2002, in order to enforce the wage standard. The Xinhe trade association

<sup>29</sup> See website of the French confederation of SMEs.

and the local government developed a symbiotic relationship (Wen and Lin 2015, 673). Although the trade association failed to halt wage competition, the Xinhe case shows that “faced with the classic collective action problem in dealing with high employee turnover and rising conflict, local employers have taken the initiative in establishing their associations and engaging in multi-employer bargaining” (Lee et al. 2016, 231).

According to Traxler (2008), employers’ interest in associational action is uncertain. He attributes this to what Offe (1985) refers to as “structural power asymmetry” in the labour market. Employers’ control over the means of production allows them a much broader range of options to advance their labour market interests compared to the options available to workers. Traxler (2008, 225) further explains that “Unions were usually formed first. The employers responded by embarking on collective action only after the unions had proved their capacity to exert pressure upon them ... smaller companies are not pressurized by union presence to join employers’ organizations”. This also holds true for MSEs.

For example, the sustained mobilization by two Nigerian oil unions, also known as the NUPENGASSAN movement, forced<sup>30</sup> labour contractors to associate into the Labour Contractors’ Forum for the purpose of collective bargaining (Aye 2017). Collective bargaining with the Forum became the norm and the issue of regularizing casual employees took centre stage (Aye 2017). However, to the extent that union presence is less likely among MSEs compared to large enterprises, MSE employers are less likely to associate.

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<sup>30</sup> Labour contractors engaged in acts of repressing any organizing effort, including by firing contract workers who joined the union and by calling in military and police when the unions organized a major demonstration (Aye 2017).

## ► 5 Collective bargaining and social dialogue in MSEs: Trends and impacts

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### Key takeaways

- Legal frameworks, MSE union density and the representation of MSEs in EBMOs influence the collective bargaining coverage of MSEs.
- The combination of thresholds that do not limit the formation of trade unions, sectoral bargaining or multi-employer bargaining and the possibility of extension is more likely to encourage higher union density, higher EBMO density and bargaining coverage in MSEs.
- Unionization, sectoral bargaining and extension mechanisms are likely to improve working conditions and labour relations in MSEs.
- Good practices of social dialogue are characterized by a participatory, consultative and team-based leadership culture, employers' openness to worker representation, and the involvement or membership of employers' and workers' organizations in local, regional and sector-level organization and networking.

In a 2015 report prepared for the 104th Session of the International Labour Conference, the ILO states that "industrial relations are still weak in SMEs, and both trade union membership and company-level collective bargaining are low" (ILO 2015b, 24). The same report noted that firm size influences social dialogue in various ways (Voss et al. 2014; Eurofound 2001; Matlay 1999). The following characteristics of SMEs are most relevant and common in this regard: (a) undifferentiated organizational and management structures, which blur the lines between employers and workers; (b) the use of informal social dialogue practices; (c) resistance by SME employers to formal mechanisms such as worker representation; (d) the limited internal resources available to be deployed for social dialogue structures (ILO 2015b, 6).

The representation gap of MSE workers and employers is reflected in a "coverage gap" in collective bargaining and social dialogue at various levels. The gap in collective bargaining coverage may be less or more pronounced than the gap in representation, depending on the nature of industrial relations systems in a given country in general and the collective bargaining structure and its scope of application in particular.

Although the available data, especially on MSEs, is limited, there is a consensus that the incidence of company-level collective bargaining in MSEs is low (ILO 2015b). Research on a broader category of SMEs, which includes MSEs, finds that, in the United Kingdom, only 4 per cent of SMEs are covered by collective bargaining, while in the United States of America the incidence of both union density and collective bargaining coverage is low (ILO 2015b). By contrast, the EU countries have substantially higher collective bargaining coverage than the United Kingdom or the United States. The 2019 ECS shows that 61 per cent of medium-sized enterprises and 60 per cent of small enterprises reported that some of their employees are covered by a collective bargaining agreement (Eurofound and Cedefop 2020, 114).



Even if the EU countries score better than other countries, SMEs are less likely to be covered by any collective (wage) agreement than larger companies with 250 or more employees (Eurofound 2020). The 2019 ECS<sup>31</sup> revealed that about 44 to 45 per cent of SMEs (with more than ten employees) in the private sector are not covered by any collective (wage) agreement. By contrast, the proportion of non-coverage among large enterprises with more than 250 employees is much lower, at 28 per cent (Eurofound 2020, 27). The 2019 ECS survey also showed that large enterprises are more frequently covered by a company-level agreement (16 per cent) or by a combination of a company and sectoral agreements (21 per cent) than SMEs (8 to 11 per cent for company agreements and 8 to 9 per cent for the combination) (Eurofound 2020). According to Eurofound (2020), sectoral wage bargaining is the most important wage bargaining structure for SMEs.

Although limited, the data suggests that in countries dominated by enterprise-level bargaining, collective bargaining coverage is much lower than in countries dominated by sector-level or higher-level bargaining and articulation between sector and company-level bargaining. Countries with inclusive systems of collective bargaining – that is, sectoral collective bargaining or multi-employer bargaining – often cover enterprises of all sizes in the specific bargaining unit, and thereby overcome the challenges that workers and employers in MSEs might face in engaging in collective bargaining. The 2019 ECS survey finds that countries that have predominantly sector-level or higher-level bargaining in place with articulated bargaining – whereby company-level agreements are made in addition to the higher-level bargaining – tend to have high bargaining coverage (Eurofound 2020, 6). Thus, our analysis suggests that the combination of (a) thresholds that do not hinder unionisation in MSEs<sup>32</sup> and (b) the existence of sectoral or multi-employer bargaining that includes an option for extension is more likely to encourage higher union density, higher EBMO density and bargaining coverage in MSEs. This pattern is observed in Germany, Norway and Spain, and to a lesser extent in Slovakia.<sup>33</sup>

## Making collective bargaining more inclusive for better jobs and representation in MSEs

A strong system of collective bargaining is a key feature of mature industrial relations and provides workers with the opportunity to earn adequate wages and benefit from better working conditions and job quality. A strong collective bargaining system is also inclusive of those in the informal economy. Public authorities can play a critical role in ensuring that all workers, including those in MSEs, benefit from the improvements and protection negotiated by unionized workers and employer(s). This includes legal provisions and policies that support multi-employer and sectoral bargaining and extend their application beyond the negotiating parties, including to those in the informal economy. Such legal provisions and policies are also important for strengthening the preconditions of meaningful collective bargaining given that sectoral bargaining and multi-employer bargaining, especially if combined with extension mechanisms, correlate with higher levels of employee and employer representation in MSEs. Higher representation, in turn, strengthens the negotiated outcomes of collective agreements (ILO 2022a).

<sup>31</sup> The ECS survey maps practices in establishments with ten or more employees across the 28 EU member countries, as well as in North Macedonia, Iceland, Montenegro and Turkey. The 2013 survey included more than 30,000 establishments, with a target sample size per country ranging from 300 to 1,650. Topics comprised work organization, human resources practices, employee participation and social dialogue, and how these practices support “smart growth”. Interviews were conducted with human resources managers and with employee representatives, wherever possible (Eurofound 2014).

<sup>32</sup> See 376th Report of the Committee on Freedom of Association, Case No. 2042, para 540.

<sup>33</sup> As discussed in section 4 above, Denmark and Italy are special cases because, although both countries have no extension mechanisms for collective bargaining, union density in the latter and bargaining coverage in the former is relatively high in the MSEs. Sectoral agreements in both countries have very high coverage.

## Sectoral and multi-employer bargaining

Sectoral and multi-employer bargaining play an important role in extending bargaining coverage to workers in MSEs. In their examination of the differences in collective bargaining coverage for 75 countries, Visser, Hayter and Gammarano (2017, 4) found that “where employers negotiate jointly in multi-employer bargaining arrangements for a sector and/or territory, the agreements include small and medium enterprises, many of which are not unionized and as a result, bargaining coverage rates tend to exceed union density rates in many countries”. Multi-employer bargaining also induces MSE employers to associate so that they can save on bargaining costs that may otherwise be higher if they deal independently with unions (Godfrey, Theron and Visser 2007).

Bargaining at the sectoral level plays a critical role in improving working conditions in MSEs. Luxembourg pursues both sectoral and company-level bargaining. Sectoral agreements initially apply only to those enterprises that belong to the employers’ associations that have signed the agreement but are often extended by the government to the entire sector (Eurofound 2020). In 2013, 59 per cent of Luxembourg’s workforce was covered by collective agreements (Eurofound 2020, 108). Large enterprises (more than 1,000 employees) had higher coverage (79 per cent), while MSEs (10 to 49 employees) had lower coverage (30 per cent) (Eurofound 2020). Sectoral collective agreements cover not only large sectors but also sectors that are mainly constituted by smaller enterprises, such as automotive repair, cleaning and electrical services.<sup>34</sup> For example, the collective agreement covering auto repair shop personnel, which is valid from 1 January 2022 to 31 December 2023 (after a tacit extension), includes compensation (that is, standard wage, wage bonus based on skill certification, annual bonus), working hours (including overtime, Sunday, public holiday and night work), holiday entitlements, safety and health protection, early retirement and limitations on liabilities of employees.<sup>35</sup>

In Denmark, the main types of collective agreements are sectoral agreements, followed by an organized sequence of company agreements. In the manufacturing sector, for example, a “centralized decentralization” system of bargaining sets the pace by concluding a sectoral agreement (The Industrial Agreement), which is then followed by local negotiations on wages and working time (Eurofound 2020, 37). Thus, sectoral bargaining is the dominant type of bargaining in Denmark, covering about 84 per cent of the labour market in both private and public sectors<sup>36</sup> (Eurofound 2020, 39). Sectoral collective agreements that cover MSEs not only regulate basic payment and working conditions but also include other aspects of work such as training (leave), holiday arrangements, and working time (Eurofound 2014, 47; Eurofound 2020). Sweden and Denmark have maintained a system of sectoral (multi-employer) bargaining and high bargaining coverage rate, as a result of, among other things, “the continuous involvement of unions and employers’ associations in public policy, a supportive legal system, and the ability of the unions to press non-organized employers into signing ‘adhesion’ or ‘participation’ agreements in which they commit to the ‘going rate’ set in the relevant collective agreement” (Hayter and Visser 2018, 8).

Most sector-level collective agreements in Denmark specify the possibility of electing an employee representative — a shop steward — in companies with more than five employees (Eurofound 2014, 66). The shop steward is not only the employee representative but also the trade union’s representative in the company. According to Eurofound (2014, 66), more than one third (35 per cent) of microenterprises (5 to 9 employees) and 69 per cent of small enterprises (20 to 49 employees)

<sup>34</sup> For a complete list of extended sectoral agreements, including those covering MSEs, see Luxembourg, <https://itm.public.lu/de/conditions-travail.html>

<sup>35</sup> Luxembourg, “Collective Agreement of Luxembourg Auto Repair Shop Personnel”.

<sup>36</sup> The sectoral agreements cover wages, working conditions (working time), employee representation, work environment and family-work issues.



have an employee representative. As a corollary, the coverage of collective agreements of MSEs is relatively high. Eurofound (2014, 67) cites a survey carried out by LO Denmark in 2010, which found that 67 per cent of companies with 5 to 9 employees have a collective agreement, versus 74 per cent for small companies with 10 to 19 employees and 82 per cent for companies with 20 to 49 employees.

Citing Denmark and Italy as examples, Holten and Crouch (2014) argue that in both countries sectoral agreements have a very high coverage and SMEs depended mainly on these agreements. In both countries, the union density in firms with ten or fewer employees is high. Moreover, citing a Eurofound study, they underscore that SME employers were more engaged in employers' associations than in most countries (Holten and Crouch 2014, 276).

Examples of sectoral bargaining can also be found in non-EU countries, such as Senegal and Uruguay. In Senegal, the national interprofessional collective agreement applies compulsorily to all workers in the private sector, including MSEs. It sets out the basic minimum terms and conditions of work, including working time, holidays, overtime rates and other allowances. It was originally agreed in 1982 and was revised for the first time in 2019.<sup>37</sup> At the sectoral level and based on the Labour Code, the Ministry of Labour convenes bipartite joint committees on its own initiative or following a request by the most representative<sup>38</sup> workers' or employers' organizations to negotiate and conclude a collective agreement in one or more sector at the national, regional or local levels.<sup>39</sup> Several new sectoral collective agreements were adopted in recent years, including in the cleaning (2015), private education (2018), media (2018), private security (2019), oil and gas (2019) and bakery (2021) sectors. The National Plan for Strengthening Social Dialogue 2021–2024 stresses the need to revitalize sectoral collective bargaining.<sup>40 41</sup>

In Uruguay, the wage commissions operate at the sectoral level and are tripartite, that is, they are formed by the Government and representatives of workers' and employers' organizations. They consist of 24 "groups" or activities around which wage commissions are formed, and the objective is to agree on minimum wages for all workers in that specific sector. Each council agrees on the various categories of workers in the relevant sector and the minimum wage applicable to each category. In addition to industry and commerce, councils also exist for rural work and are applicable to enterprises of all sizes but do not apply to non-registered workers.<sup>42</sup>

## Extension mechanisms

The effect of sectoral and multi-employer bargaining is even more significant when extension mechanisms are activated. Legal extension mechanisms are acts of public policy that depend on the decision of a public authority. 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" (ILO 2022a, 59).

<sup>37</sup> Senegal, *Convention collective nationale interprofessionnelle du Sénégal* (2019).

<sup>38</sup> According to article 85(4) of the Labour Code of Senegal: "The representative character of a trade union or a professional group is determined by the Minister in charge of Labour who will bring together all the elements of appreciation after consulting the Labour and Social Security Inspectorate within the jurisdiction. The elements of assessment will include in particular: the workforce and the results of the elections of staff representatives; independence; trade union fees; the trade union's experience, scope and nature of its activity. The decision of the Minister is subject to appeal before the Council of State."

<sup>39</sup> Senegal, *Code du Travail, Loi no. 97-17, Decembre 1997*, art. 85.

<sup>40</sup> Senegal, *Plan national de Renforcement du Dialogue social 2021–2024*.

<sup>41</sup> ILO, *A Review of Wage Setting through Collective Bargaining*, 2023.

<sup>42</sup> Uruguay, Ministry of Labour and Social Security, "*Consejos de Salarios y Negociación Colectiva*".

Citing several studies, the ILO (2022a, 59) highlights the importance of legal extension mechanisms in terms of promoting collective bargaining, supporting sectoral bargaining institutions, maintaining high levels of coverage of enterprises and workers, and eliminating incentives for employers to leave their associations.

Extension mechanisms can play a role in strengthening the application of the outcome of sectoral or multi-employer bargaining beyond the signatories, thereby creating a level-playing field in the given sector, industry or territory. In South Africa, the Labour Relations Act of 1995 provides for extension of the collective agreement concluded in national bargaining councils, which in effect extends the provisions of the agreement to all employers and employees who are engaged in the textile industry, including MSEs. Collective agreements were concluded at the National Bargaining Council for the Clothing Manufacturing Industry<sup>43</sup> and the National Textile Bargaining Council<sup>44</sup> (in 2014 and 2019, respectively) and cover remuneration, hours of work, employee benefits, termination of employment contract and organization rights, among others.

However, it should be noted that mandatory extension mechanisms can become a barrier for formal MSEs to maintain their market share in a context characterized by high levels of informality, and may eventually push the enterprise into informality. Therefore, in some countries MSEs can seek exemption from the extension of collective agreements. In South Africa, bargaining councils are required to establish an effective procedure to deal with exemptions, including an independent body to hear appeals where exemptions are refused (ILO 2022, 61). This is not always the case. For example, in Norway, competition by foreign firms and independent contractors in domestic markets has often motivated SMEs to support extension (Hayter and Visser 2018).

To overcome the challenge of meeting the representativity criteria for extension,<sup>45</sup> some countries do not use a defined threshold but require the agreement to be “significant”, “important” or “preponderant” (Hayter and Visser 2018, 16). This provides public authorities with “discretion in extending the agreement for sectors where there is great seasonal fluctuation in employment, significant subcontracting and labour leasing, or jobs are contracted by firms operating from abroad” (Hayter and Visser 2018, 16).

Hayter and Visser (2018, 16) argue that given the growing diversity of firms and work arrangements in recent years, public interest considerations have become more important. In Switzerland and Norway, public authorities made greater use of the extension of collective agreements to protect vulnerable workers, including those employed in small businesses (Visser, Hayter and Gammarano 2017). In South Africa, the Labour Relations Act was amended in 2014 to enable the Ministry of Labour to account for the composition of the workforce in the sector – specifically the proportion of workers in non-standard employment – when establishing whether the social partners have reached the threshold required for the extension of a collective agreement (ILO 2015c). In Norway, collective agreements are extended in sectors in which there is a substantial proportion of foreign workers and where wages are below the standard (ILO 2015c).

Extension mechanisms also set a “selective incentive” for MSEs to associate (Traxler 2005). According to Traxler (2005, 306–307), there is good reason for MSEs to have their own association engaged in collective bargaining:

<sup>43</sup> The bargaining council for the clothing manufacturing industry is composed of six employers’ organizations and the Southern African Clothing and Textile Workers’ Union (SACTWU). It should be noted that SMEs are collectively the largest employer in the South African clothing industry.

<sup>44</sup> The bargaining council for the textile industry is composed of ten employers’ organizations and the SACTWU.

<sup>45</sup> The representativity of negotiating organizations is one of the most challenging criteria for the extension of collective agreements and “is rarely below 50%” (Hayter and Visser 2018, 16).

►► *This is due to the negative externalities collective bargaining creates for SMEs in almost all European countries, when being left to other business representatives. Negative externalities arise from the fact that the outcome of collective bargaining tends to affect the SMEs even when they and their associations do not negotiate with the unions. This is due to the widespread practice of extending the validity of multi-employer collective agreements to employers who are not affiliated to the signatory employer association. It is usually the general or similarly encompassing associations and their affiliates that conclude collective agreements ... If these agreements are then extended, they bind unaffiliated SMEs as a consequence of the encompassing membership domain of the signatory BIA [business interest association]. In these circumstances, it is rational for SMEs to have their own association engaged in collective bargaining, since the large firms whose labour market interests differ from those of SMEs tend to prevail in the general associations.*

The results of Traxler's study provide information about the membership effect of extension – the level of density in terms of both companies and employees (of the business organization or MSE association) tends to increase with the coverage of extension (Traxler 2005, 315). When the extension of collective agreements is unrestricted in practice, on average, less than one third of the companies in the EU-15 area and the vast majority of employment within an association's domain are actually organized. Where extension is practised in a restricted way, less than 20 per cent of the companies and about 40 per cent of employment in an association's domain is still under its umbrella. If extension practices are completely lacking, the associations can generally organize less than 10 per cent of the companies and little more than one third of employment (Traxler 2005, 315). The effect of such policy measures and statutory provisions, however, is more pronounced and is more likely to be sustained if MSE workers are unionized (see box 6).

► **Box 6. Enhancing the voice of workers through unionization and sectoral bargaining in Bulgaria**

In Bulgaria, two examples of MSEs with strong union membership that are also covered by sector-level social dialogue illustrate how representation of workers in MSEs can be enhanced through unionization and sectoral bargaining. The union in the microenterprise Belinvest is linked to the Trade Union of the Employees in Brewery and other Food and Beverages Industries. Although collective bargaining does not take place at the company level, the provisions of the sector-level collective agreement for the brewery sector are implemented. Although the company is not a member of the employers' organization (that is, the Union of Enterprises in the Brewery Sector), it follows the rules and recommendations of this organization. By having a strong union at enterprise level, the welldeveloped sector-level social dialogue and bargaining outcomes have positively influenced social dialogue, industrial relations and working conditions at the company.

**Source:** Eurofound (2014, 65–66).

Although not discussed in depth in this report, public procurement policies may also have an important extension effect in promoting the observance of collective agreements by including clauses that make reference to collective agreements. For example, the 1995 Federal Ordinance on Public Procurement in Switzerland states that public contracts should preferably refer to working conditions as laid down in locally applicable collective agreements (ILO 2015c).

## ► Conclusions, policy recommendations and proposed areas of action for social partners

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The significant contribution of MSEs to employment generation underscores the enormous potential of these enterprises for generating decent work. Although research focusing on the quality of employment in MSEs is limited, the available evidence suggests that decent work deficits are typically more present in MSEs compared to larger enterprises. This is due to a host of factors such as the lower levels of productivity of MSEs (partly due to weak business environments); the limited reach of labour laws and in some instances the special exemptions from labour law and non-compliance with labour regulations; the low density of trade unions and employer organizations; and weak industrial relations systems.

The findings from this study show that the quality of industrial relations in MSEs is linked to the degree of informality and the broader system of industrial relations in a country, including social dialogue structures and processes that provide repeated opportunities for consultation. Just as importantly, the quality of industrial relations systems is determined by the degree of respect of fundamental worker rights and of the strength of representation structures of workers and employers. Thus, policy and regulatory measures play an important role in making collective bargaining systems more inclusive and strengthen representation of social partners. This includes measures that remove vulnerabilities, which make MSE workers reluctant to organize as well as measures to strengthen the business environment for MSEs. Considering the limited available literature on industrial relations in MSEs, a key recommendation of this paper is to undertake further research on innovative strategies of industrial relations institutions and actors in improving working conditions and labour relations in MSEs. Recognizing the heterogeneity of MSEs, there is a need to further investigate the linkages between such innovative strategies and MSEs' business environment.

In addition to the recommendation for further research, this paper outlines a set of policy recommendations that involve state-led action as well as bottom-up initiatives by social partners.

### Policy recommendations

The significant contribution of MSEs to employment generation and national output underscores the enormous potential of these enterprises in making development more inclusive. However, employment in MSEs is more likely to be characterized by decent work deficits, which is due to various factors discussed above. Recommendations for governments, employers' and workers' organizations are set out below.

### Recommendations for governments:

1. In consultation with the most representative organization of workers and employers, introduce measures which strengthen protection for workers in informal employment, many of whom work in MSEs, in both labour law and its application. This would include also measures which expand and strengthen access to quality public services, comprehensive social protection schemes, adequate wages and others. This would be critical not only for improving working

conditions but also for removing the vulnerabilities that may make workers reluctant or unwilling to organize and make it difficult for MSEs to thrive. This includes:

- a) Ensuring social protection coverage for workers in the informal economy.<sup>46</sup> This could also include strategies discussed in this report, such as adopting special regimes with less onerous social security contributions for MSEs, or providing discounts or incentives (for example, tax incentives, amnesty for historic non-compliance) in order to encourage MSEs to formalize their employees by paying social security contributions.<sup>47</sup>
  - b) Guaranteeing full application of all labour laws, which directly or indirectly affect the exercise of fundamental rights and the improvement of working conditions. Rather than excluding MSEs from the application of certain laws or lowering the level of rights, strategies that support these MSEs to comply with the law may be more effective both in terms of improving working conditions, but also in addressing unfair competition of those MSEs that compete by violating labour laws.
  - c) Extending inspection mechanisms to MSEs and promoting decent working conditions by building the capacity of MSEs through seminars and training to eventually improve their capacity to comply.
2. Following tripartite consultations, strengthen national systems of industrial relations, especially freedom of association and the effective recognition of the right to collective bargaining, which could include measures such as:
    - a) Ensuring that all workers, regardless of the nature of their employment, including informal workers, have the right to join or establish trade unions of their own choice.
    - b) Amend labour laws to fully realize freedom of association in the context of Article 2 of ILO Convention 87. This may also include lowering, if not eliminating, the numerical requirements or thresholds for union registration.
    - c) Incentivize MSE employers to organize and/or join EBMOs that deal with labour market and industrial relations issues and provide other important support services.
    - d) Promote inclusive collective bargaining systems, with a special focus on sectoral (multi-employer) bargaining. This may include providing a legal framework that is conducive to sectoral bargaining, and foreseeing extension mechanisms that give priority to the criteria of public interest. Public authorities may support the establishment of joint industry forums for employers and trade unions on issues of concern for the sector or may introduce provisions for the registration of joint multi-party bargaining councils. Such policy measures are of particular importance, both in terms of extending protection to MSE workers, and also in terms of strengthening the representation structures of MSE workers and employers. Extension provisions may also grant specific exclusions for MSEs.
    - e) Promote the inclusion of the labour and industrial relations agenda of MSEs in all tripartite structures and mechanisms at the sectoral and national levels. This may include discussing initiatives to promote the freedom of association and collective bargaining in MSEs.
    - f) Create conditions that facilitate the establishment of territorial or regional structures of worker and employer representation that include MSE.
  3. Support the development of an enabling environment for sustainable enterprises, paying particular attention to MSEs in order to ensure that they have the means and resources to offer

<sup>46</sup> The Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204) provides guidance for governments in this respect.

<sup>47</sup> For more information, see ILO (2021a).

productive and decent employment.<sup>48</sup> In this regard, governments have a key role to play when it comes to designing, funding and monitoring and evaluating policies and programmes targeted towards MSEs specifically, as well as in ensuring that the overall business environment is also conducive to smaller enterprises and their workers. Measures to be taken include:

- a) Design regulations and legislation taking into consideration the possible effects on MSEs and their workers. In consultation with employers' and workers' organizations, in which MSEs are represented, address any existing regulations that may be considered to be redundant, excessive and rigid in order to reduce the administrative burden for MSEs.
- b) Take active policy measures to support the access of MSEs to finance, while also developing support schemes to facilitate the access of MSEs to finance and supporting the financial literacy of MSEs.
- c) Promote quality and accessible business support services for MSEs, in collaboration with EBMOs and sectoral business associations, to improve productivity and workplace practices, as well as by facilitating the upgrading of MSEs to higher value-added activities.

## Recommendations for employers' organizations

1. Explore whether services can be expanded to MSEs, including those operating in the informal economy, following the guidance of the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204). Ensure that the voices of MSEs are heard in EBMOs and that they are represented in the governing bodies of EBMOs.
2. Provide services that promote enterprise performance and productivity (for example, digitalization and innovation, capacity-building solutions, management practices, business networking, peer to peer lending, team-based leadership style, employee engagement and good human resource practices), as well as programmes and services that assist MSEs in observing workers' rights, including freedom of association and collective bargaining rights.
3. Ensure that MSEs are present in tripartite structures at the sectoral and national levels, as well as in networks at local and other subnational levels, in other business and/or professional organizations and institutions, and in bodies responsible for labour issues (for example, OSH, employee compensation, social security, wages and productivity).
4. Provide advice and services linked to collective bargaining, such as assisting MSEs in understanding the fundamental rights to freedom of association and collective bargaining; provide support in collective bargaining processes; and offer services such as providing information on wages, productivity and sectoral developments, providing legal advice on regulations and procedures, and organizing training on topics such as negotiation skills.

## Recommendations for trade unions

1. Engage with existing associations of formal and informal MSE workers – such as workers' associations, community-based organizations and so on – to promote workers' rights, joining efforts to advance the agendas and priorities of these workers; this could result in workers in MSEs being more familiar with the work of trade unions and in the promotion of affiliation.

<sup>48</sup> For further guidance, see ILO, Conclusions concerning the promotion of sustainable enterprises, International Labour Conference, 96th Session, 2007; and ILO, Resolution concerning small and medium-sized enterprises and decent and productive employment creation, International Labour Conference, 104th Session, 2015.



2. Adopt a grassroot organizing strategy in organizing MSE workers in the informal sector including by adapting the membership structure of trade unions to the particular situation of workers in the informal economy. The organizing themes could include minimum wages, social security, OSH, job security, income and livelihood security, workspace/location security, skills training and upgrading, and protection from harassment by authorities. Active engagement in broader policy initiatives that significantly affect MSE workers, such as access to quality public services, comprehensive social protection schemes and adequate wages could be also an important strategy for mobilising and organizing these workers. The trade unions could consider extending or further expanding services or membership to workers in the informal economy following the guidance of Recommendation No. 204. This could be done by modifying statutes of constitutions of unions and allowing the direct affiliation of individual workers with industry-level trade unions.
3. Establish and/or strengthen territorial/regional structures of worker representation, which could take up industrial relations issues for MSE workers. These structures may also serve as a framework of organizing these workers collectively, as well as help address the threshold limitations for unionization set in legal frameworks.
4. Strengthen participation in social dialogue with the government and employers (and their organizations) on the recommendations set out for governments in the section above (that is, the recommendations on adopting high-road and formalization strategies in MSE development frameworks, while involving MSEs in tripartite structures and social dialogue) and the recommendations for employers' organizations set out in the section above (that is, the recommendations on assisting MSEs in complying with labour standards, extending representation to MSEs and involving MSEs in social dialogue and tripartite structures).

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## Acknowledgements

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The working paper was authored by Melisa Serrano and Edlira Xhafa under the guidance of and with contributions from Verena Schmidt (Inclusive Labour Markets, Labour Relations and Working Conditions Branch - INWORK), Marlen de la Chaux (Micro, Small and Medium Enterprises Branch - MSME) and Sara Andersson (MSME). Valuable inputs and comments were provided by the ILO Bureau for Employers' Activities (ACT/EMP) and the ILO Bureau for Workers' Activities (ACTRAV) as well as various specialists including Philippe Marcadent (Chief of INWORK), Dragan Radic (Chief of MSME), John Ritchotte (Lead of the Labour Relations and Collective Bargaining Group, INWORK), Florence Bonnet (INWORK) and Marleen Rueda (external collaborator). Claire Piper (INWORK) is acknowledged for providing excellent secretarial support.



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