

LABOUR RELATIONS AND COLLECTIVE BARGAINING



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TRENDS IN COLLECTIVE BARGAINING COVERAGE: STABILITY, EROSION OR DECLINE?*

Collective bargaining over wages and other working conditions between unions and employers is a key labour market institution in democratic societies. The coverage and impact of this institution varies over time and across countries. This policy brief examines differences in collective bargaining coverage for 75 countries. Inclusive bargaining, conducted by unions and employers' organizations received significant public policy support during the interwar Depression and after 1945. By contrast, collective bargaining has come under pressure in many countries since the financial crisis of 2008. This followed a longer-term decline in union membership rates. Countries in which collective bargaining coverage remained stable or increased are those that supported inclusive collective bargaining through a range of policy measures.

Collective bargaining is a process of negotiation between independent unions and employers (or employers' organizations) to determine terms and conditions of employment, typically wages and working time, and relations between the parties. The outcome is a collective agreement, signed by the parties to the negotiations. It affords labour protection to workers, legitimacy (of rules) and stability to employers, and provides public authorities with a form of regulation which is determined by the social partners and can thus be tailored to their circumstances - at the same time reinforcing compliance with minimum standards.

Collective bargaining is predicated on respect for the right to organize and the recognition of the right to collective bargaining. It is a fundamental principle and right at work, recognized as such by the international community.¹ The Right to Organize and Collective Bargaining Convention, 1949 (No. 98) is one of the eight fundamental Conventions of the ILO. It guarantees collective bargaining as a voluntary process between independent and autonomous parties. Article 4 calls on public authorities to take:

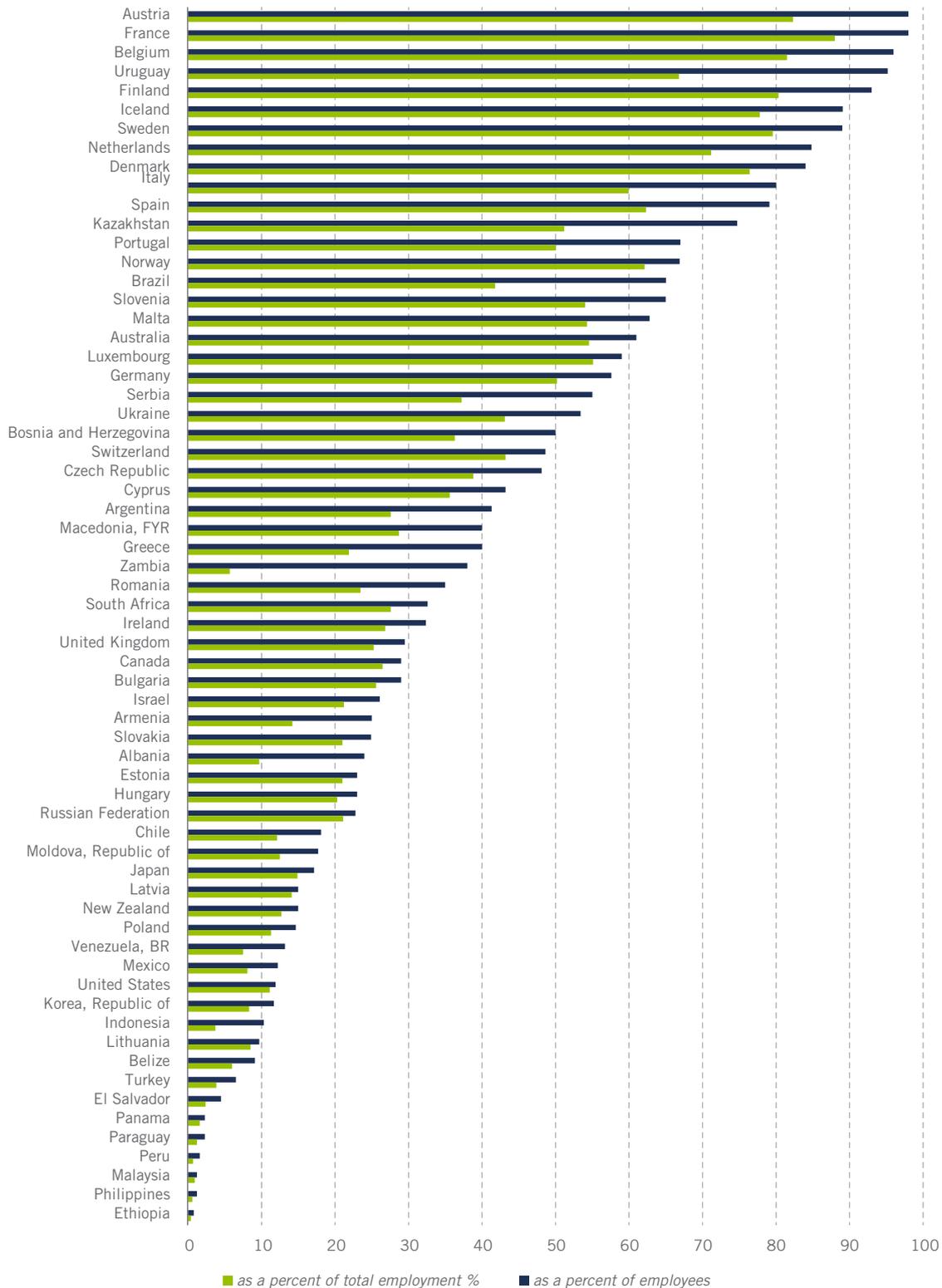
Measures appropriate to national conditions [...] to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means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

The Collective Bargaining Convention, 1981 (No. 154) and the accompanying Recommendation (No. 163) describe some of these measures including the establishment of agreed rules and procedures, processes for the resolution of disputes, and access to information for meaningful negotiations. The Collective Agreements Recommendation, 1951 (No. 91) considers, where appropriate and having regard to national practice, that measures should be taken to extend the application of all or certain stipulations of a collective agreement to all the employers and workers included within the industrial and territorial scope of the agreement. Together, these instruments inform the adoption of policies that promote collective bargaining and support the inclusive coverage of workers by collective agreements.

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¹ Convention No. 98 has been ratified by 164 countries. Article 2. of the 1998 Declaration on Fundamental Principles and Rights at Work declares that all ILO member States, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour; and (d) the elimination of discrimination in respect of employment and occupation.

Figure 1: Bargaining coverage rates, as a proportion of employees and total employment, 2013 or latest



In a few countries, the United States, Canada, the UK and for recent years also Estonia and Finland, household or labour force surveys contain a question about bargaining coverage; for most countries, however, we rely on administrative data, and estimates, provided by labour ministries, employers' organisations, trade unions or joint councils. In Germany, coverage data are derived from the annual establishment survey. Differences in data collective methods, in sampling, treatment of the public sector, and registration practices, may impair comparability. Sources for the data are available at www.ilo.org/ilostat (IRData)

What proportion of workers are covered by collective bargaining?

The indicator considered in this brief is bargaining coverage, defined as the share of employees to whom a collective agreement applies. This coverage statistic provides a first approximation of how inclusive collective bargaining is in affording labour protection.

Data on bargaining coverage for 75 countries shows a significant variation in coverage, from just about 1 or 2 percent of employees in Ethiopia, Malaysia, the Philippines and Peru to nearly 100 percent in France, Belgium, Austria and Uruguay.ⁱⁱ There is significant variation in bargaining coverage ranging from very low levels in Turkey, the United States, the Republic of Korea and Mexico; medium-low levels in Japan, Canada, the United Kingdom and South Africa; medium-high levels in Brazil, Germany and Australia; and high levels in Italy and France.

Coverage rates express the proportion of workers whose pay and working conditions are regulated by one or more collective agreements. Although it has been standard practice to calculate coverage rates for wage and salary earners in employment, in countries with a large informal economy, the formal category of employees may be small in comparison to total employment and high coverage rates may present a distorted picture about the significance of collective bargaining in labour markets.

Figure 1 (on previous page) presents data on collective bargaining coverage as a share of total employment and as a share of employees for countries where both

rates are available. As far as possible, both rates have been adjusted for the possibility that some workers do not have the right to bargain collectively over wages, in particular workers in the public services who may have their wages determined by state regulation or other methods involving consultation.

As expected, coverage rates calculated as a proportion of total employment (broad) are always lower than coverage rates calculated as a proportion of employees (narrow). In some countries the differences are very large - for instance in Zambia (6 versus 38 per cent), Venezuela (7 versus 13), Brazil (42 versus 65), Albania (10 versus 24), Greece (22 versus 40), Portugal (50 versus 67) and Italy (60 versus 80). Even in some Northern European countries with regulated labour markets, such as the Netherlands, the gap is quite large (71 versus 84 percent) as a result of the rising numbers of own account workers. However, whether the coverage rate is broad or narrow, this does not affect the order of countries from high to low coverage rates.ⁱⁱⁱ Thus for comparative purposes, we consider coverage rates as a proportion of employees.

Figure 2 (on next page) provides coverage rates of men and women respectively – that is male and female coverage as a proportion of male and female employees. In countries for which there is data, there is very little difference in the rates for men and women, particularly where collective bargaining agreements are more inclusive.

Is the variation in coverage rates due to the difference in unionization rates?

Collective bargaining over wages and working conditions is the core activity of most trade unions. Thus we might expect more workers to be covered by collective agreements when more of them are unionized. However, this relation does not perfectly hold.

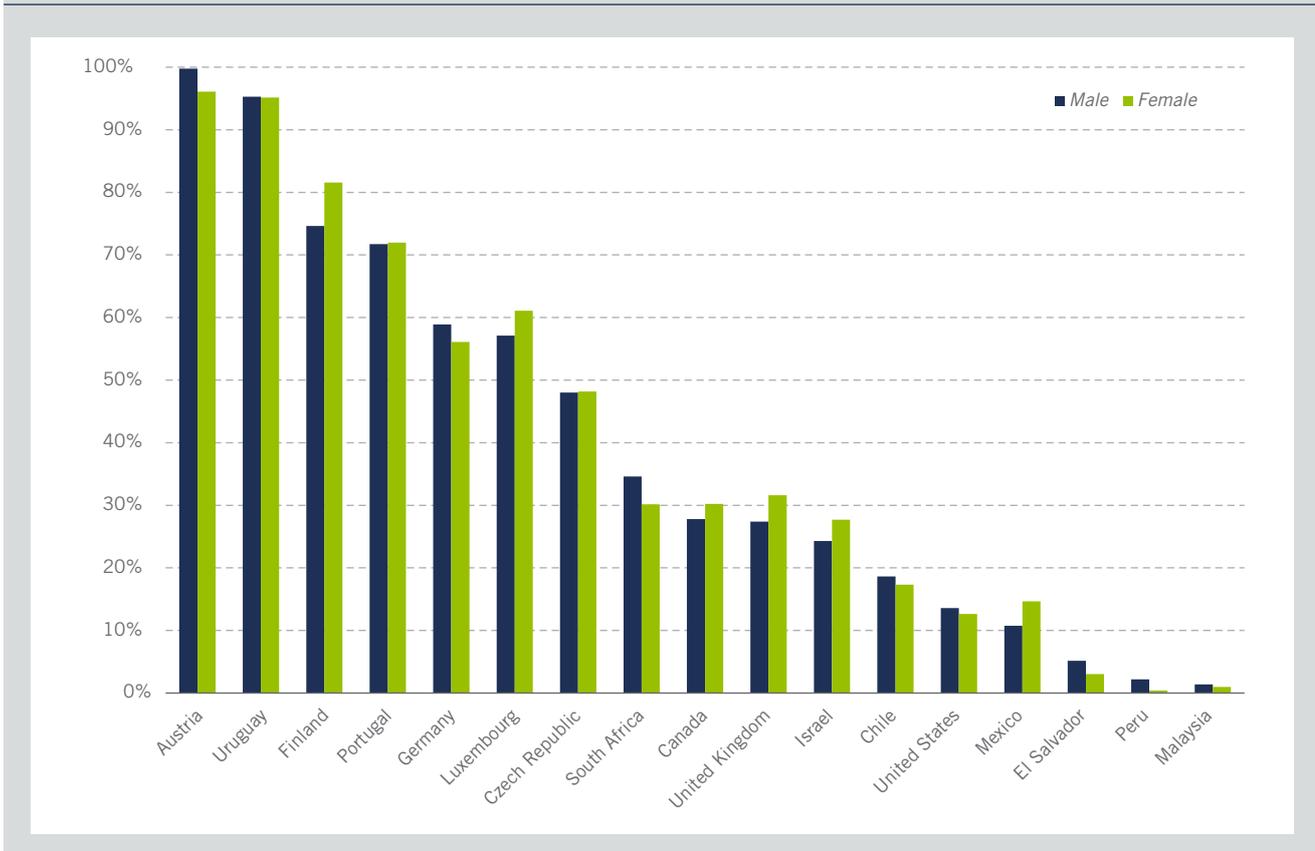
Figure 3 (on next page) compares the union density (membership as a proportion of employees) and bargaining coverage rates across 60 countries for which there is recent data on both of these indicators. While these two rates tend to move together, significant disparities can be observed which include countries with high collective bargaining coverage and low union density rates (e.g. France), and countries with relative high union density rates and low collective bargaining coverage rates (e.g. Moldova, Philippines, El Salvador and Malaysia).

In 13 countries union density exceeds bargaining coverage, in around half of these by a wide margin. There are four potential explanations for this. First, measurement errors caused by administrative arrears in union membership data, reporting errors and different sources may distort the real picture. For example, data for the Russian Federation are more complete and comprehensive for union membership (which includes that of minority unions) than for bargaining coverage, which only includes agreements concluded by member unions of the dominant federation. Second, union membership may be concentrated in the public services, where methods other than collective bargaining (e.g. public service consultation bodies) may be used to determine terms and conditions of

ⁱⁱ This includes data collected annually by the ILO, data collected by national correspondents and the compilation of data by Jelle Visser (ICTWSS). It is available from the ILO, **IRData** (www.ilo.org/ilostat) and J. Visser, **ICTWSS Database**, version 5, AIAS (<http://www.uva-aias.net/208>).

ⁱⁱⁱ The correspondence between the two indicators is very high, with a rank order correlation coefficient (Spearman's rho) of 0.97.

Figure 2: Bargaining coverage rates for men and women



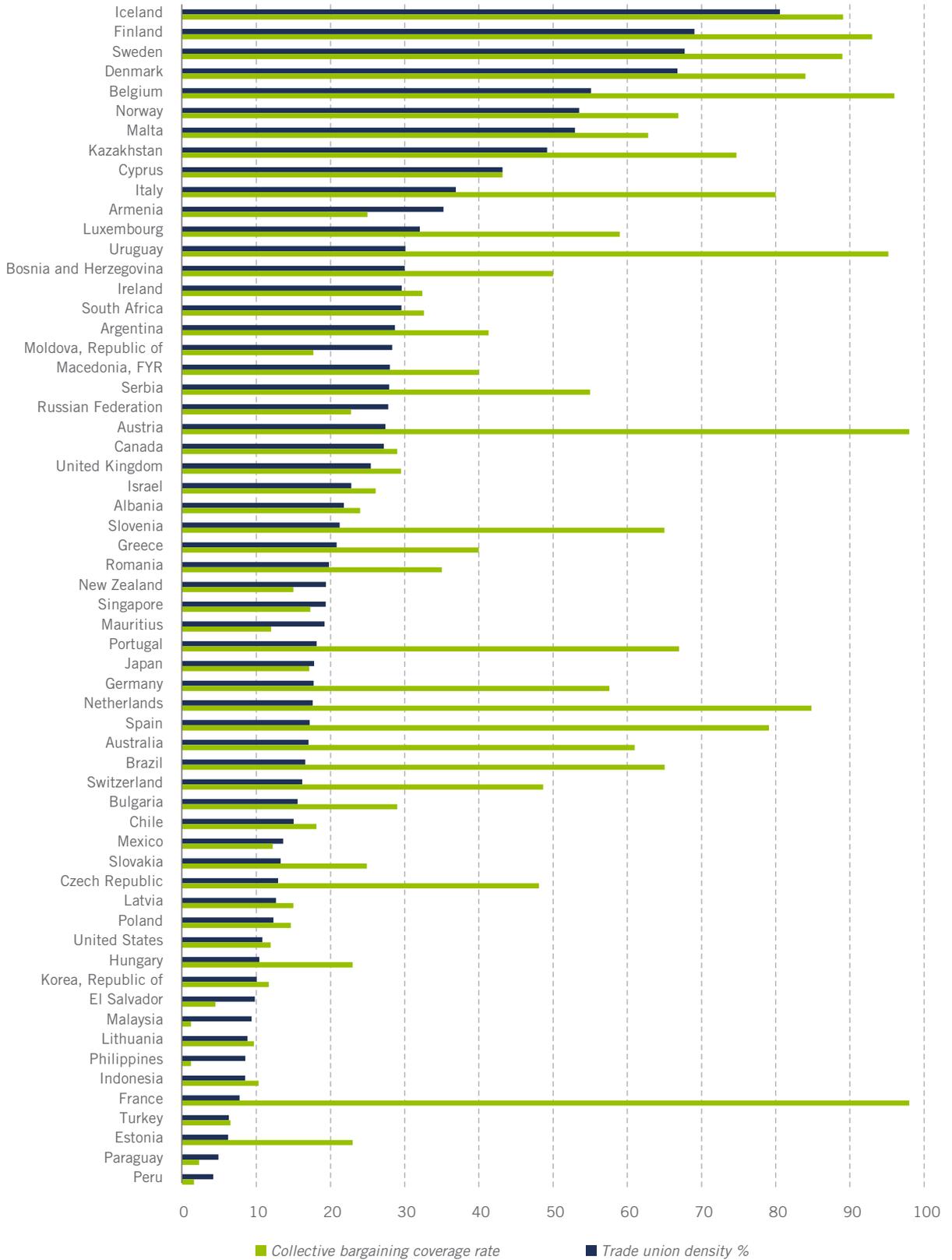
employment. Third, unions may consider their primary roles to be political lobbying and the administration of social security – and not collective bargaining. Finally, employers may resist collective bargaining and unions may find it difficult to gain the majorities needed to be recognized for the purposes of collective bargaining, yet retain their membership.

In 47 countries coverage rates exceed union density rates, in 15 countries by more than double. This is possible because many if not most employers, having signed a collective agreement with the union, then apply its terms and conditions to union and non-members. In some countries employers are required to do so by law (e.g. in Belgium, Brazil, the Netherlands, Japan, Paraguay, Indonesia and some states in the United States of America), however, in many others this practice may have little to do with the law. For example, some employers may apply the terms of a collective agreement to all workers in order to reduce

the incentive to join a union and to limit rivalries and conflict in the workplace. This can leave unions with a problem of free riding. In some countries unions are compensated on the basis of a payroll levy that covers the costs of negotiating the collective agreement. The ‘union shop’, in which workers automatically join a union if an agreement applies, is now rare.

Finally, 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. As a result, coverage rates will tend to exceed union density rates. Similarly, when agreements are concluded for the entire economy they include sectors that may not be unionized, such as retail, hotel and catering, cleaning, etc. In fact in all of the 15 countries in which coverage rates exceed union density rates by a large margin, bargaining takes place at the sectoral or national level (or both).

Figure 3: Bargaining coverage and union density rates, 2013 or latest



How does bargaining coverage relate to the level of bargaining?

Data on the dominant bargaining level is available for 57 countries.^{iv} This provides a score from 1 (enterprise bargaining) to 5 (national bargaining), with 3 (sectoral bargaining) in between, and two scores (2 and 4) for mixed situations. Figure 4 shows that the level of bargaining (national, sectoral, or enterprise) is the single-most important predictor of bargaining coverage. Multi-employer bargaining at the sectoral or national level is the most inclusive form of collective bargaining.

Under conditions of single-employer bargaining (plant, enterprise, company) only a limited number of employees tend to be covered, usually those in large and medium-sized enterprises or units. Among the 25 countries where bargaining takes place at the enterprise level (lower panel Figure 4), coverage rates vary between 1 per cent and 35 per cent; the average is 14 per cent. At the high end of this range, are countries such as Canada, the United Kingdom, Ireland and Romania, where employers still negotiate jointly in some sectors (for example, in the state of Quebec, in the health services in United Kingdom, in construction in Ireland, or some groups of companies in Romania). Under pure enterprise level bargaining, coverage does not exceed 25 per cent.

In countries dominated by multi-employer bargaining at the sector or national level bargaining (the upper panel in Figure 4), the variation in bargaining coverage ranges from 49 per cent in Switzerland to 98 per cent in France or Austria. For the 19 countries where sector or national bargaining (or some combination) prevails, an average 76.8 per cent of employees are covered by collective bargaining agreements. In between we find a group of 13 countries that cannot be classified under one of the two dominant types (either enterprise or sector) and, predictably, coverage rates tend to lie at an intermediate level.

This association between bargaining level and bargaining coverage also holds over time. Wherever multi-employer bargaining breaks down and is replaced by single-employer bargaining, the coverage rate decreases dramatically, as fewer enterprises choose to recognize trade unions and negotiate collective agreements.^v Dramatic examples of this include the sharp contraction in bargaining coverage that followed legal changes in the United Kingdom in the 1980s and 90s and New Zealand in the 1990s. More recent examples include the steep decline in Greece and Romania after the end of the national pay agreement, and in Portugal, following legal changes that stalled the negotiation of new sectoral agreements.

Collective agreements reached through multi-employer bargaining may be extended to all employers including those who are not a member of the employers' organization that negotiated the agreement. Public authorities use this tool to establish a minimum standard for pay, working conditions and other terms of employment in enterprises operating under broadly similar conditions, usually a sector or branch of the economy (Visser, 2013a). In half of the countries for which we have recent data on coverage and bargaining structure, the possibility of extending collective agreements exists in law. In 14 countries these extension provisions play a very limited role in enhancing the inclusiveness of collective bargaining coverage, either because bargaining takes place primarily at the enterprise level, or because of administrative requirements such as high thresholds for representivity or the exercise of veto rights by one or other of the social partners. In 16 countries, the extension of collective agreements plays an important role in enhancing the inclusiveness of bargaining coverage. These are all countries in which bargaining takes place in multi-employer bargaining arrangements at the sectoral and/or inter-sectoral (national) level.

Why do the social partners engage in multi-employer bargaining?

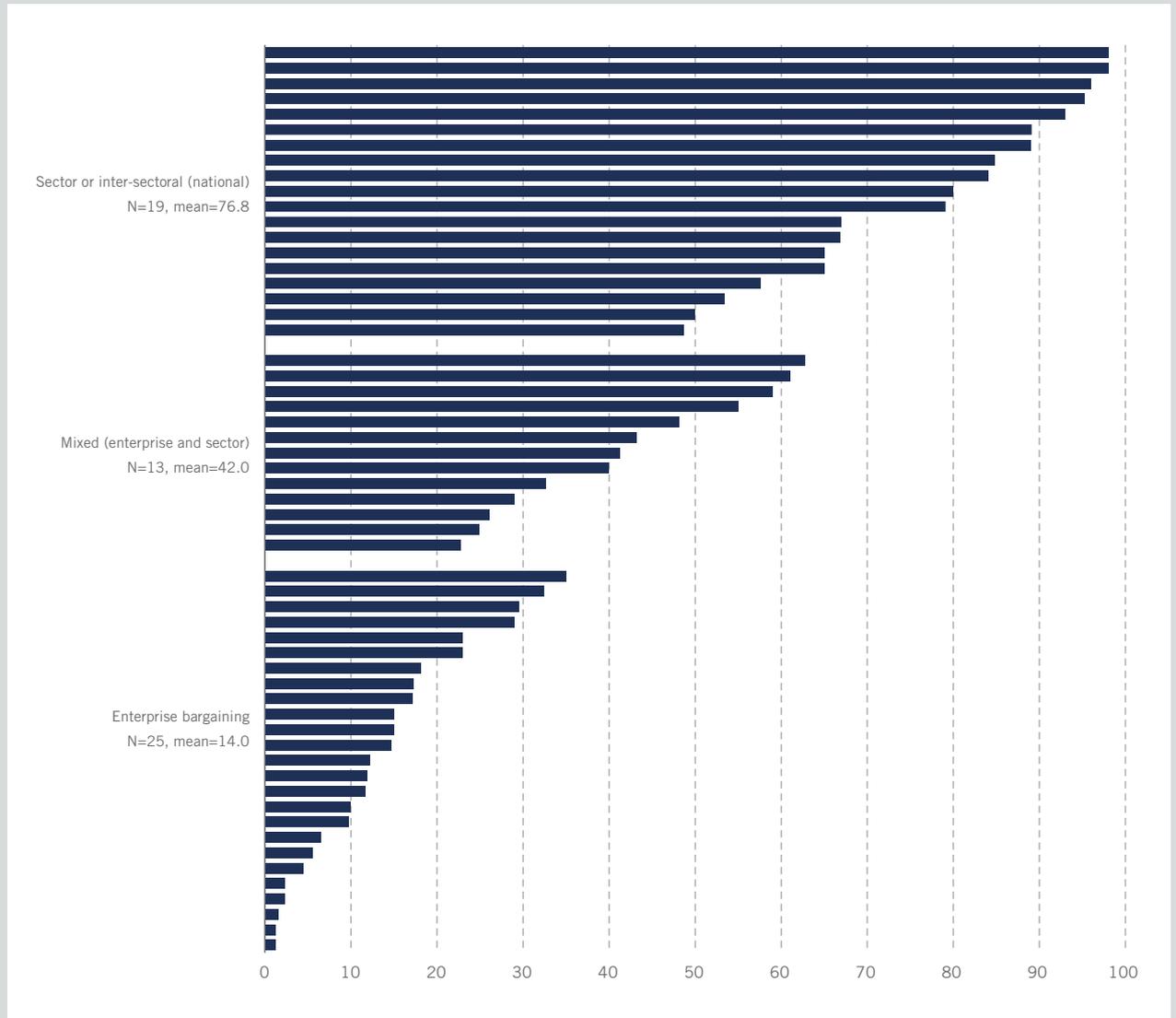
Under single-employer bargaining each employer bargains independently. Under multi-employer bargaining, employers come together in associations with a mandate to bargain. Whether employers prefer to come together before negotiating a collective agreement with the union depends on many factors.

Faced with strong industrial unions, employers may seek to enhance their negotiating power by forming a united front. They may also see this as a way of securing industrial peace and bringing stability to the industry (Sisson, 1987). Multi-employer bargaining can also save on bargaining costs for individual

^{iv} J. Visser, ICTWSS Database, version 5, AIAS (<http://www.uva-aias.net/208>).

^v It may of course be the case that some groups of employees prefer to negotiate individually, but the more frequent case seems to be that under conditions of pure company bargaining, such as in the U.S., many workers who would prefer collective representation cannot realize their preference (Freeman and Rogers, 2006).

Figure 4: Dominant bargaining level and bargaining coverage



enterprises, especially in homogenous industries and in respect of small and medium-sized firms that do not have the capacity to deal independently with unions (Godfrey, Theron and Visser, 2007). In particular circumstances - such as is the case with temporary work agencies and in the contract cleaning and private security sectors - enterprises may also engage in multi-employer bargaining as a means to afford inclusive and effective labour protection. This was one of the key reasons, for example, that established temporary agency firms in the Netherlands negotiated a sectoral contract with the unions and advocated its extension to non-organized firms so as to both limit the operation of enterprises that did not pay social security contributions and prevent statutory intervention to re-regulate the sector. Multi-employer

bargaining tends to be highly coordinated and can have a moderating effect on wages, benefiting more productive enterprises in an industry.

From the point of view of workers, multi-employer bargaining has advantages as well as disadvantages. Unskilled workers tend to do better under industry-wide or economy-wide bargaining, whereas skilled workers may gain more from company bargaining, especially where it allows for some individual pay bargaining (Iversen 1999). Multi-employer bargaining tends to offer more inclusive labour protection for vulnerable categories of workers, such as migrant workers, those in non-standard forms of employment and workers employed in small firms. It can also help to establish minimum standards for working conditions in an industry or sector, taking these out of competition.

Multi-employer bargaining can be used by the social partners to establish a 'common rule' and joint regulation, reducing the need for, and costs of statutory intervention – a point that is explicitly mentioned in both Swiss and Dutch legislation. Some public authorities rely on multi-employer bargaining as an important regulatory tool, for instance, in regulating flexible working hours and variable wage standards in particular industries, obtaining employer cooperation in training policies, and establishing and administering voluntary pension schemes. They also support multi-employer bargaining through the extension of collective agreements reached by representative parties. This can in turn act as an incentive for employers to join employers' organizations so as to have some influence over an outcome that will be binding in any event (Traxler, 2000).

Multi-employer bargaining does restrict the ability of individual enterprises and local unions to act independently, and both may prefer to retain their autonomy.^{vi} Indeed, there are a number of countries in which enterprises can engage in multi-employer bargaining, but choose not to and where this practice remains limited. Enterprises may prefer to negotiate collective agreements that reflect their own particular situation. Moreover, with the increasing heterogeneity of enterprises within an industry or country, the costs of reaching and administering multi-employer agreements

tends to rise. Unions experiencing a weakening in the effectiveness of coordinated bargaining may prefer to focus their collective power on the shop floor.

One solution, which maintains the benefits of coordination while allowing the tailoring of agreements, is to combine sectoral and enterprise level bargaining in a multi-level bargaining system in which sectoral agreements set a framework for company bargaining (Jimeno and Thomas, 2011). In Europe, the practice of including opening clauses in national and sectoral agreements has been growing. These typically permit enterprises to deviate from the terms established at a higher level through a negotiated agreement. This opens up the possibility, for example, to increase working time and contractual flexibility in the interest of employment security (for the Netherlands, see Visser, 2013b). The main dividing line is between countries (or sectors) where this decentralisation is 'organized' and those where it is 'disorganized' (Traxler 1995). In the first case of 'organized decentralization', additional enterprise-level bargaining is highly coordinated within sectoral or national framework agreements with minimum provisions and dispute resolution procedures which help to ensure the stability of collective bargaining. In the second case, these deviations – often imposed by law – advance the erosion and/or breakdown of sectoral or national level bargaining.

How has collective bargaining coverage changed since the recent economic crisis?

Data on changes in bargaining coverage rates from 2008 to 2013 for 48 countries shows that, on average, there has been a drop in bargaining coverage of 4.6 per cent, compared with an average decline in union density in the same period and for the same group of countries of 2.3 per cent. These averages, however, reflect different developments across countries, as can be seen from Figure 5.

Table 1 presents a summary of the policy measures of governments and strategies of the social partners that either contributed to the stability, increase and inclusiveness of collective bargaining coverage – or precipitated its decline. During the years of the Great Recession bargaining coverage increased in 10 countries, sometimes, as in Australia, owing to a change in procedural rules supporting good faith bargaining, or as in Finland, due to the conclusion of a national general agreement by the social partners. In some countries, like the Netherlands,

collective bargaining expanded into new sectors and/or collective agreements were extended (cleaning, services, safety, etc.). In Switzerland and Norway, the public authorities changed their policy orientation and made greater use of the extension of collective agreements to protect vulnerable workers, especially in sectors with predominantly small businesses and those employing a high proportion of migrant labour. In Brazil the increase in the coverage of collective bargaining resulted from the growth in employment together with its increasing formalization.

Next there is a small group of countries including France, Italy, Canada, Austria and Belgium, where bargaining coverage remained stable. In some of these, for instance in Belgium and France, the extension of collective agreements played an important role. These are also countries in which collective bargaining was a key element of the crisis response, including through the negotiation of 'job saving' agreements, many of

^{vi} The Collective Bargaining Recommendation, 1981 (No. 163) states that "measures adapted to national conditions should be taken, if necessary, so that collective bargaining is possible at any level whatsoever, including that of the establishment, the undertaking, the branch of activity, the industry or the regional national levels." (para 4(1)). The ILO Committee of Experts on the Application of Standards has also noted "the need to ensure that collective bargaining is possible at all levels," and that "the issue is essentially a matter for the parties." ILO, *Giving globalization a human face – General Survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization*, 2008 (ILO, Geneva, 2012) p. 89.

Figure 5: Changes in bargaining coverage between 2008 and 2012/13

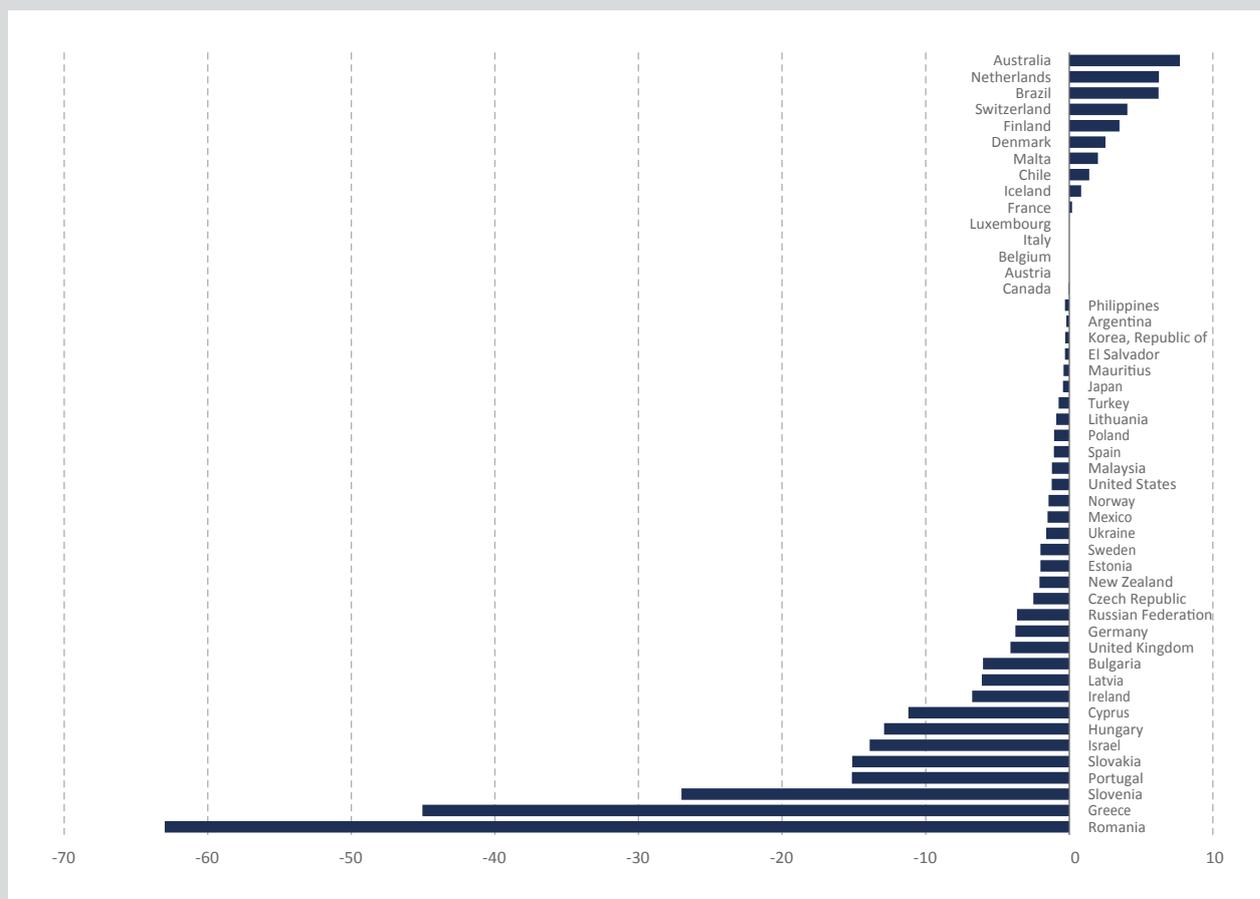


Table 1: Policy measures of governments and strategies of social partners

| Stability or increase in coverage | Decrease in coverage |
|--|---|
| Social pacts or national general agreements. | Cessation of national general agreements. |
| Policy measures to enhance inclusiveness of collective agreements: <ul style="list-style-type: none"> Lowering thresholds for extension and introduction of public interest considerations (e.g proportion of non-standard workers, migrants or vulnerable workers). Application of collective agreements to posted workers. | Weakening of support for multi-employer bargaining: <ul style="list-style-type: none"> Extension provisions suspended or re-regulated. Increase of representivity thresholds (for recognition). Limiting continuation of agreements. |
| Organized decentralization: <ul style="list-style-type: none"> Framework agreements facilitating articulation of issues across different levels. Conditional derogation clauses (e.g. time bound, depending on economic difficulty) allowing opt-outs by way of negotiated agreement. Conditional exemption from extended agreement for enterprises by way of negotiated agreement (with adequate minimum standards). | Disorganized decentralization: <ul style="list-style-type: none"> Legislation giving company agreements priority over multi-employer agreements (removal of favourability principle). Legislation introducing possibility for companies in economic hardship to opt-out of sectoral agreements. Recognition of (non-union) bargaining representatives at the enterprise. |

which drew on short-time working schemes. However, in many cases the underlying reason for the stability observed is the continued willingness of employers' organizations and trade unions to negotiate with each other – and to act as social partners in the regulation of labour markets – in a context in which there is growing pressure to devolve more issues to bargaining and decision making at enterprise level. This often involves the setting of framework conditions in sectoral and/or inter-sectoral agreements allowing for subsequent enterprise-level bargaining on issues and the use of conditional negotiated derogations, reinforcing a trajectory of organized decentralization. In Denmark, for example, for the 75 per cent of employees covered by collective agreements, pay is set at the enterprise level – yet coverage rates have risen as a result of the inclusive coverage of sectoral agreements.

There is a larger group of countries in which the erosion of bargaining coverage began much earlier than 2008. The most prominent case is the erosion of collective bargaining in Germany after the unification of East and West Germany in 1990. An increasingly restrictive view on the part of employers' organizations in the Collective Bargaining Committee (which confirms extension) led to a decline in the number of collective agreements being extended (Bispinck, Dribbusch and Schulten, 2010). Declining union membership, the increased use of opening clauses permitting derogations from collective agreements and the possibility of membership in employers' organizations 'unbound by collective agreements' (in German, ohne Tarifbindung, or OT membership) all contributed to the erosion of bargaining coverage (Haupter, 2011). In the USA, the UK, Japan and other countries dominated by enterprise bargaining, the erosion of bargaining coverage has continued over a number of decades. In Israel, the erosion of bargaining coverage advanced as very few sectoral agreements were concluded. In all countries, it became more difficult to renew existing agreements during the recession, resulting in fewer collective agreements.

The sharpest decline in bargaining coverage occurred in the group of European countries that suffered severe economic difficulties during the crisis (lower panel of Figure 6). The bargaining coverage rate for this group of 10 countries fell by an average 21 per cent. Many of these countries – Cyprus, Greece, Ireland, Latvia, Portugal and Romania – required international financial assistance. The programs accompanying the loan packages of the IMF, European Central Bank and European Union often required changes in wage setting.^{vii}

The result was the introduction, by governments, of changes to the collective bargaining framework that gave priority to company level agreements over sectoral and national agreements; provided for the recognition of other (non-union) workers' representatives at the enterprise level; limited the continuity of collective agreements beyond expiry; and either suspended or made it more difficult to apply extension provisions (Marginson and Wetz, 2014). In Romania, Ireland, Greece and Slovenia, national pay agreements were ended in 2009 or 2010. In Greece, Portugal and Spain the favourability principle was set aside and company agreements were given priority over sectoral agreements. In Spain the validity of expired agreements was limited to one year, in Portugal to eighteen months, in Greece and Croatia to three months. In Estonia, legislative changes required parties to agree to the continuation of agreements. In Greece extension was suspended for the duration of the programme, until 2015. In Slovakia, Portugal and Romania it became more difficult to extend agreements. In Ireland extension orders (REAs) were suspended after a ruling of the Supreme Court (for details of these measures see Marginson and Wetz, 2014).

In these dramatic cases, the sharp decline in collective bargaining activity and coverage was not the direct result of employer resistance to collective bargaining or declining membership in unions — although this did not help the situation — but rather the result of policy induced changes reversing support for collective bargaining.

^{vii} See: Cyprus, Technical Memorandum of Understanding, April 29, 2013; Greece, Updated Memorandum of Understanding, and Memorandum of Understanding on Specific Economic Policy Conditionality, August 6, 2010 (and MOU, December 21, 2012); Ireland: Memorandum of Understanding on Specific Economic Policy Conditionality, December 3, 2010; Latvia: Technical Memorandum of Understanding, July 27, 2009; Portugal: Memorandum of Understanding on Specific Economic Policy Conditionality, May 17, 2011; and Romania: Technical Memorandum of Understanding, June 16, 2010.

Conclusion

Inclusive bargaining conducted by unions and employers' organizations received significant public policy support during the interwar Depression and after 1945. By contrast, collective bargaining has come under pressure in many countries since the financial crisis of 2008. This followed a longer-term decline in union membership rates. Countries in which collective bargaining coverage remained stable or increased are those that supported inclusive collective bargaining through a range of policy measures.

Clearly government policies have a key role to play in supporting inclusive bargaining. This means an

enabling legal framework that ensures respect for organizational rights and facilitates the effective recognition of unions and employers (and/ or employers' organizations) for the purposes of collective bargaining. It also requires governments to take appropriate measures and adopt policies that promote collective bargaining.

Given rising inequality and the demand for social justice, public policies need to shore up collective bargaining and enhance its coverage and inclusion. There is also a need to reinforce its foundations: strong and representative trade unions and employers' organizations.

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