

Industrial relations and social dialogue

# **Moving with the times: Emerging practices and provisions in collective bargaining**





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# Executive summary

## Introduction

Collective bargaining systems differ across the EU Member States, depending on industrial relations traditions and practices and on political, economic and labour market conditions. They vary in terms of the respective roles collective bargaining and legislation play in regulating the labour market, in the levels at which bargaining is conducted and in how negotiations at different levels interrelate.

The flexibility of collective bargaining in comparison to statutory regulation suggests in principle a strong capacity to be proactive in facing the challenges stemming from the twin (green and digital) transition and other structural changes in the EU. However, the extent to which it is able to adapt to these challenges relates to the priorities of the negotiating agenda and to the structural and contextual factors affecting capacity to innovate.

Against this background, this report examines the extent to which collective bargaining in recent times has adopted practices and introduced provisions in agreements to address the challenges presented by the COVID-19 pandemic and ongoing structural shifts. The report covers collective bargaining systems in 10 Member States and is based on cases identified through interviews with key stakeholders and negotiating parties at national level.

## Policy context

Since 2000, collective bargaining in the EU has been undergoing a transformation, accelerated by the 2007–2008 financial crisis, resulting in declining numbers of employees covered. More recently, the COVID-19 pandemic slowed down the pace of negotiations and caused a temporary switch to online meetings.

Collective bargaining is expected to play a role in implementing the national recovery and resilience plans (NRRPs) and mitigating the impact of the war in Ukraine. Mapping collective bargaining has attracted the interest of the EU institutions in relation to its possible use in the European Semester cycles and for benchmarking minimum wages. Several Member States have adapted their frameworks for collective bargaining and the social partners' involvement in policymaking in line with Principle 8 of the European Pillar of Social Rights, which reaffirms the role of social dialogue and the social partners in economic and social development.

## Key findings

- Innovations in collective bargaining are predominantly incremental, updating existing topics or processes in response to changing conditions. Therefore, new practices and major innovations are limited, even in relation to technological change, since most agreements simply update or better specify established practices and content.
- Statutory regulations are important as a basis for introducing new topics in collective agreements in Member States with strong regulation of employment relations or weak industrial relations institutions. However, regulatory developments are also important in Member States with stronger collective bargaining systems, helping actors to frame negotiations and bring in new practices.
- The study's findings do not support the expectation that collective bargaining has a bigger role in adaptation to change in Member States with pluralist industrial relations than in those where the state plays a more central role in regulating employment relations.
- The diversity of emerging practices and provisions highlights the varying conditions leading to their inclusion in collective bargaining. Some favourable conditions for innovation can be identified; these relate to aspects of the industrial relations system (the institutional context in which bargaining takes place or specific features of sectors or companies) and operate in combination with certain sector-specific factors and company features.
- Favourable conditions in a sector or company (such as strong institutions and skilled actors involved in negotiations) and shared perceptions of the challenges faced are essential to facilitate the emergence of innovative practices and provisions in collective bargaining. A previous track record of cooperation, reflected in the ability to conclude collective agreements, is particularly important.
- The institutional context, government initiatives and statutory regulations, and organisational characteristics of the social partners help to explain differences in the capacities of collective bargaining systems to incorporate new practices and provisions.

- Sector-specific factors are key in driving structural changes and to creating the conditions for the emergence of new practices and provisions. Innovations related to the green transition, for instance, have developed in those sectors directly affected by the decarbonisation process.
- The role of sector-level collective bargaining in innovation is contested in some systems, notably in those that favour a bottom-up approach to achieving company-level agreements.
- The digital transition is one of the most important drivers of change in collective bargaining. Provisions regulating telework are widespread – although these already existed in some Member States prior to the pandemic – and provisions covering the implementation of technology in the workplace are becoming usual.
- Since technological change has a direct impact on the skills composition of jobs and job requirements, collective bargaining is more and more frequently addressing reskilling through training policies. In some cases, the aim is to anticipate future reorganisation and mitigate the impact of job losses. Collective bargaining provisions are also addressing labour shortages, which are becoming increasingly common.
- Worker participation at company level is key to ensuring inclusive outcomes of measures to adapt to change, particularly change related to the green transition and digitalisation. Emerging practices have taken the form of instruments to ensure worker participation in change processes and innovative clauses, such as the introduction of schemes to link ‘greening’ practices and compensation and worker input on the use of artificial intelligence tools.
- Demographic change and the ageing workforce are closely related trends that are having a strong impact on the labour market, including in the form of labour and skills shortages. Collective agreements have started to include measures tackling these challenges.

## Policy pointers

- To contribute to a fair and inclusive transition to a green and digital economy and to address other structural changes in society, public policies should be developed to strengthen collective bargaining capacity at all levels. These policies should aim to reinforce the capacity of collective bargaining to reach agreements based on a renewed negotiating agenda – featuring, for example, labour market shortages, skills gaps, and emerging health and safety risks – while respecting the autonomy of the social partners.
- EU and national public policies could help boost collective bargaining to support the implementation of NRRP-related reforms, particularly in sectors under restructuring pressure. The interaction between collective bargaining and structural reforms could be specifically analysed when monitoring the implementation of the NRRPs.
- Promoting collective bargaining entails regular collection of reliable data. Setting up an EU observatory on collective bargaining could be explored. This monitoring tool would help in exploiting the potential of collective bargaining to contribute to the implementation of EU macroeconomic and social policies while supporting the European Pillar of Social Rights Action Plan.
- The weakness or absence of collective bargaining in some Member States makes a strong case for building the capacity of the social partners in those Member States and for the establishment of frameworks and incentives to support sectoral collective bargaining.



# Introduction

## Role of collective bargaining in industrial relations

The term ‘collective bargaining’ refers to all negotiations between trade unions and employers to determine working conditions and terms of employment, including issues related to pay and working time, and to regulate relations between employers and workers, as outlined in International Labour Organization (ILO) Convention No. 154.

Collective bargaining systems differ across EU Member States depending on existing industrial relations traditions and practices and on political, economic and labour market conditions. They vary in terms of the respective roles of collective bargaining and legislation in regulating the labour market, in the levels at which bargaining is conducted and in how negotiations at different levels interrelate (termed ‘articulation’). The degrees of centralisation and coordination of collective bargaining – and especially pay bargaining – are important features of a collective bargaining system, with implications for both labour market and macroeconomic outcomes (Eurofound, 2022).

Since the beginning of 2000, collective bargaining systems and processes in the EU have been undergoing changes, a process accelerated by the 2007–2008 financial crisis. The main indicators of these changes are more rapidly declining coverage rates and regulatory changes in a number of collective bargaining practices and processes, particularly with regard to the extension of collective agreements, shifting functional hierarchies and the growing importance of company-based bargaining processes.

State intervention and social dialogue, as well as the existing degree of coordination in collective bargaining, have been key to shaping the process of change, which has primarily involved moving towards decentralisation and flexibilisation of multilevel bargaining systems and practices. Whereas these processes have taken place in a gradual and coordinated way in some countries, in others the shift has been much more abrupt and disorganised, often imposed unilaterally by governments (Eurofound, 2015).

The primary role and function of collective bargaining continues to be a subject of discussion. While employers tend to seek more flexibility with regard to setting

wages and deviating from higher-level agreements to respond better to global challenges and market competition, unions and worker representatives aim to achieve better income and wealth distribution and greater equality, to maintain employment levels and to improve working conditions. Efforts to achieve a balanced approach allowing collective bargaining to pursue all these goals have been at the core of negotiations.

In this regard, the ILO stresses that, as a form of co-regulation, collective bargaining can make an important contribution to the inclusive and effective governance of work, with positive effects on stability, equality, compliance, and the resilience of enterprises and labour markets (ILO, 2022).

In addition, studies suggest that coordination in collective bargaining regimes is important as a means of combining economy-wide goals with company-level goals. Company-level bargaining allows for better alignment of wages with productivity, while sector-level agreements tend to reduce wage dispersion among workers, resulting in greater equality (European Commission, 2020).

Collective bargaining is a key instrument for adjusting employment relations to structural and sector-specific developments. Collective agreements have several advantages over statutory regulations. First, in most Member States, collective agreements can cover almost any issue, since regulations tend not to limit the topics that can be included in negotiations (except those that would be illegal). Second, because topics and processes can be tailored to the specific conditions of a sector or company in collective bargaining, collective agreements can be effective in achieving the overall goals of less specific national regulations. Third, since collective agreements reflect the consensus of the social partners involved in regulating employment relations in a given sector or company, the rules included in collective agreements should enjoy a high degree of acceptance among those affected by them. Finally, collective bargaining is a flexible form of governance. This means that all or parts of a collective agreement can be revised or updated at any time if necessary. The flexibility and adaptability of collective bargaining in comparison with statutory regulation suggests in principle that it has better capacity to be proactive in adjusting to ongoing challenges and, importantly, anticipating them.

## Grouping systems by predominant bargaining level

Although every collective bargaining system has some specific individual features, several classification schemes grouping these systems have been developed, based on key institutional and geographical characteristics. Eurofound has identified four broad groups of collective bargaining systems across Europe based on their pattern of bargaining arrangements, using the results of the 2019 European Company Survey (ECS):

- those with decentralised, predominantly company-based bargaining
- those in which company- and sector-level bargaining coexist with neither dominating
- those with predominantly sector-level bargaining
- those in which articulated bargaining (between sector and company levels) is the predominant form and there is also a high degree of sector-level bargaining

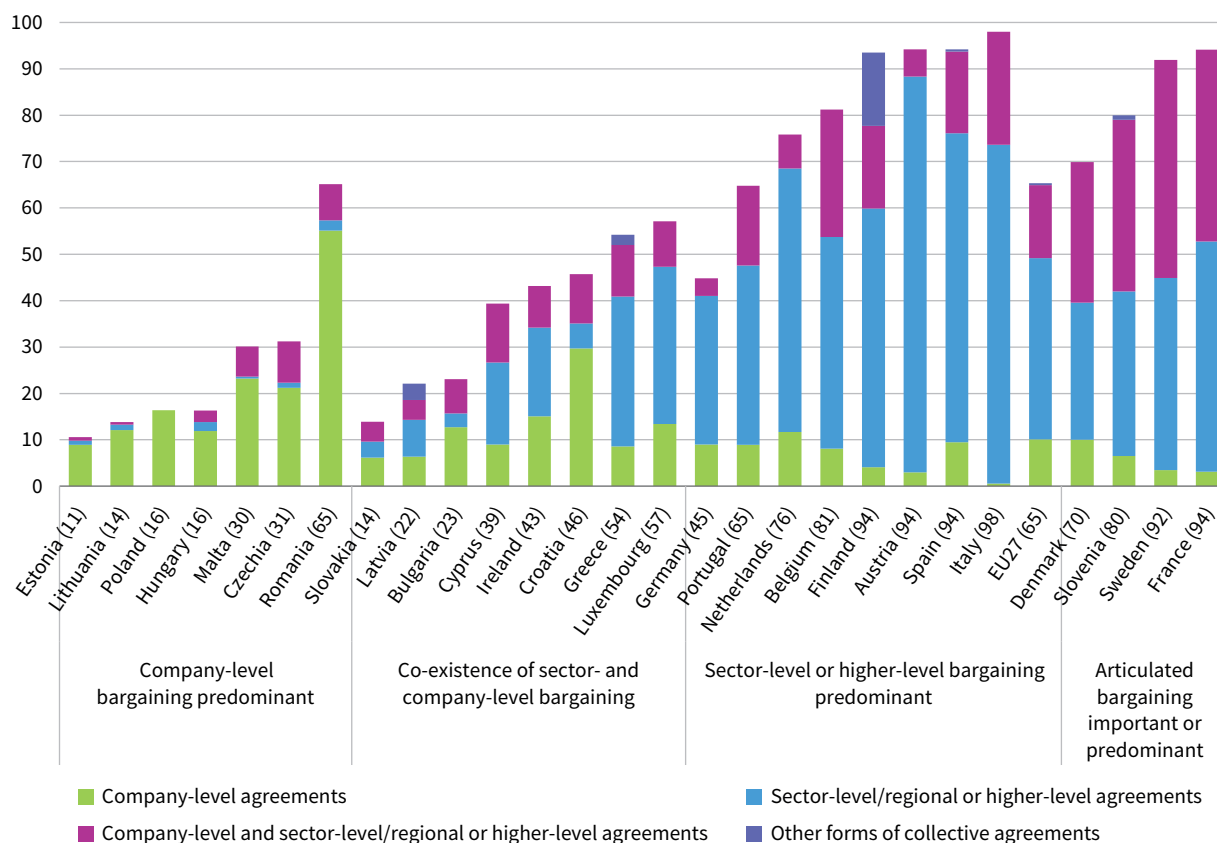
Figure 1 provides an overview of the four groups, categorised by country.

## Evolution of collective bargaining

Labour markets and employment relations in the EU are undergoing a paradigm shift triggered by the digital transition, the growing emergence of climate-neutrality policies, and population and workforce ageing. Adding to the effects of these mega-drivers are other phenomena taking place in the economy and the business environment.

Collective bargaining systems and practices usually react slowly to such changes, unless there are legislative or other urgent and cross-cutting regulatory issues at stake that need to be addressed at company or sector level. For example, the COVID-19 pandemic and the subsequent economic and social crisis led to collectively agreed remote working, as well as measures addressing concerns about occupational safety and health. Furthermore, change will affect some sectors more profoundly than others, and the pace of change will be different across sectors and countries.

**Figure 1: Estimated collective bargaining coverage (%) and predominant level of agreements, EU27, 2019**



**Notes:** Numbers in parentheses in the country labels indicate the percentage coverage in that country. The estimated coverage figures obtained from the ECS are broadly in line with other sources, except those for Ireland, Greece and Romania, which are higher than those recorded in other databases. However, it should be noted that the ECS sample is restricted to private sector establishments with more than 10 employees and does not cover the whole economy, including the public sector.

**Source:** ECS 2019, authors' calculations

## Innovation versus emerging practices and provisions

While change may be studied in terms of innovation, innovation in collective bargaining has not been the subject of systematic review and analysis in the field of industrial relations. Therefore, there have been no attempts to theorise about or develop a coherent analytical framework to understand how and under what conditions innovations emerge in collective agreements. The elusive character of the concept of innovation in collective bargaining is probably one of the reasons for this lack of scholarly attention. While the concept of innovation in economic theory has generally been linked with enterprises or individual organisations (by Schumpeter, for example), collective bargaining involves social systems and social organisations dealing with work issues, and the concept of innovation cannot necessarily be understood in relation to them in the same way. Furthermore, what constitutes innovation in collective bargaining is not always clear cut, as an innovative approach or measure may work in one setting but not in another.

The concept of social innovation used by the Organisation for Economic Co-operation and Development (OECD, undated) and supported by the Oslo Manual (OECD and Eurostat, 2018)<sup>1</sup> could be adapted for application to industrial relations and collective bargaining. In that context, innovation could be understood as the design and implementation of new solutions in collective bargaining that entail procedural changes, the introduction of new issues to the collective bargaining agenda, or changes to collective bargaining processes set out in existing collective agreements that ultimately aim to improve both business productivity and the well-being of workers. Having arrived at this definition, elements connected to socioeconomic and environmental issues could be added, reflecting the role that innovation plays in sustainability.

Innovations in collective bargaining are, however, relative and context specific, since such an innovation can be identified only taking into account the conditions in which it takes place. That is, what could be considered an innovation in the collective agreement of a certain sector or company might not necessarily be considered one in that of a different sector or company.

In light of the difficulties of defining innovation in collective bargaining, the less ambitious concept of an emerging practice or provision has been used in this report to refer to those aspects of collective agreements that depart from the processes and issues that have traditionally characterised collective bargaining in a certain field and that help to adapt those collective agreements to current challenges.

## Theorising change in collective bargaining

The literature on industrial relations has put forward different interpretations of the causes, mechanisms and effects of emerging practices and topics in collective bargaining. Two main interpretations can be found in the literature. A structural-functionalist approach perceives innovations in collective bargaining as resulting from the normal operation of institutionalised channels of dialogue and negotiation (Dunlop, 1958). From this perspective, innovations respond to the need of the industrial relations social system to keep performing its functions (Rogowski, 2000). In other words, innovations emerge almost automatically from the system's need to reproduce itself or from the needs of the actors and institutions in the system to establish the set of rules governing the workplace. This approach would, therefore, predict quasi-automatic responses from the system and would attach only a marginal role to agency.

This systems approach asserts that these responses are the result of actors' negotiations, that their establishment is influenced by the wider environmental context in which those actors operate, and that the actors themselves share an interest in maintaining the processes of negotiation and conflict resolution (Abbott, 2006). Accordingly, change is mostly endogenous and to a large extent incremental, resulting from the interaction between the norms created by the social partners and the context. This framework conceives the industrial relations system as self-adjusting towards equilibrium. If a change in one element has repercussions for the other elements, it will set in motion processes that will invariably restore a sense of order to the system. Exogenous shocks disrupting the operation of the system thus require a response from the actors in it to restore equilibrium and ensure that collective bargaining and its outcomes continue to meet the needs of the actors and the socioeconomic system.

<sup>1</sup> The Oslo Manual is the basis upon which the OECD and other international organisations collect and publish statistics on business innovation. It distinguishes between innovation as an outcome (an innovation) and the activities by which innovations come about (innovation activities). The 2018 edition defines an innovation as 'a new or improved product or process (or combination thereof) that differs significantly from the unit's previous products or processes and that has been made available to potential users (product) or brought into use by the unit (process)'. This general definition is given a more precise formulation for use with businesses, which is the main focus of the manual.

The second approach to analysing emerging practices and provisions in collective bargaining departs from the functionalist perspective and conceptualises them as a result of processes whose outcomes are largely dependent on the wider institutional and regulatory context and the characteristics of actors involved in the industrial relations system. Rather than assuming an automatic response by the actors involved in collective bargaining to endogenous or exogenous challenges, this group of theories emphasises the conditions facilitating or hindering the emergence of new topics or processes in collective agreements.

One theoretical approach that takes this perspective places an emphasis on strategic responses by actors to changes in the context or decisions taken at different levels of the industrial relations system. This strategic choice theory interprets emerging practices and provisions in collective bargaining as responses by collective bargaining actors to changes, policies and decisions made by governments, companies and so on (Kochan et al, 1986). By acknowledging the effects of strategic decisions on different actors in the system, this perspective also posits quasi-automatic reactions by the social partners that affect collective agreements. However, other actor-centred theoretical approaches supplement insights from strategic choice theory with the argument that the extent and direction of changes in collective bargaining are conditional on the power resources mobilised by the actors involved (Korpi and Shalev, 1979; Lévesque and Murray, 2010, 2013; Gumbrell-McCormick and Hyman, 2013). This argument would also contribute to explaining differences in collective bargaining responses, based on the features of trade unions and, more specifically, their capacities to use power resources in collective bargaining.

Compared with strategic choice theory, institutionalist approaches place more emphasis on the importance of the institutional context, rather than actors' resources and characteristics, to explain the emergence of new practices in collective bargaining. Varieties of capitalism theory would thus relate innovations in collective bargaining to characteristics of the industrial relations system (Hall and Soskice, 2001). Accordingly, in coordinated industrial relations systems, where there are long-standing forms of institutionalised cooperation between strong trade unions and employer organisations, new practices and topics in collective bargaining are more likely to arise (Addison et al, 2017). By contrast, in those countries in which industrial relations are characterised by a greater degree of conflict between the social partners, and where the state has played a regulatory and coordination function,

stepping in to resolve coordination issues, innovations in collective bargaining will be harder to find and will in most cases follow legal developments (Howell, 2006; Molina and Rhodes, 2007).

The analysis carried out in this study was not guided by one particular approach. Since the objective was to uncover patterns of change and adaptation in collective agreements, inductive reasoning was used. Emerging practices and provisions in collective agreements are therefore presented, analysed and discussed with these different approaches in mind.

## Report objectives and approach

This report presents developments in a selection of collective bargaining systems in the EU. The research focused on the identification of emerging practices and innovative approaches to structural change in collective bargaining, looking at the extent to which these were motivated by ongoing drivers of change in industrial relations and labour markets (mainly technological change and digitalisation, the green transition, and demographic ageing), without excluding other long-term trends and developments that may be impacting on collective bargaining. The highly disruptive impact of the COVID-19 crisis on collective employment relations is addressed.

This research study followed a bottom-up approach, identifying emerging practices and topics resulting in new trends in both negotiation processes (agendas and bargaining dynamics) and outcomes (the content of agreements). Therefore, the unit of analysis is the emerging practice or provision identified in one collective agreement rather than the collective bargaining system as such. The focus was mainly on collective agreements at sector level and in the private sector, although collective agreements at company level were also analysed owing to the characteristics of some national bargaining systems.

When this report refers to emerging practices and provisions in collective bargaining, it means those processes and contents that either differ from those already observed in previous collective agreements or that constitute the adaptation of existing content and practices to a new context. Such developments are consequently context dependent. In some countries and sectors, some of these emerging practices or provisions may be well established and thus not constitute an innovation, while in others they are entirely new to the collective bargaining system.

## Methodology

The study covers collective bargaining systems in 10 Member States (Table 1). Since it focuses on collective bargaining at sector level, most of the countries selected have systems in which sector-level bargaining predominates. As long as the overall level of bargaining coverage is fairly high, small and medium-sized enterprises are more likely to be covered by collective agreements in such systems, since they tend not to be covered by company-level agreements.

**Table 1: Collective bargaining systems included in the study, grouped by predominant level**

Predominant level of bargaining	Collective bargaining system
Company level	Czechia, Poland
Co-existence of company and sector levels	Slovakia
Sector or higher level	Germany, Italy, the Netherlands, Portugal, Spain
Articulated (sector and company levels)	Slovenia, Sweden

Source: Authors, based on ECS 2019

Once the collective bargaining systems had been selected, a mapping exercise was conducted to identify and select emerging practices or content in collective agreements. This exercise was carried out by reviewing collective bargaining developments in each country, relying on secondary sources. In some cases, exploratory contacts were made, and interviews conducted with relevant stakeholders, mainly negotiating parties and signatories to collective agreements, to gain a clearer understanding of a potential emerging practice or provision.

Through this exercise, several emerging practices and provisions as well as collective agreements were selected; some collective agreements included more than one emerging practice or provision. Collective agreements were selected predominantly in the private sector and at sector level, although company-level collective agreements were also selected, to complement sector-level ones or because of weak or non-existent sector-level collective bargaining in some countries. Once the mapping exercise was complete, a short factsheet was created for each practice or provision and collective agreement.

A conceptual typology of developments in collective bargaining processes and agreements was created as a working tool to group the emerging practices and provisions identified and to help analyse the results of the fieldwork. This typology, represented schematically in Table 2 overleaf, focuses on two dimensions.

- First, the study draws a distinction between developments that relate to processes (practices) and those that relate to content (provisions). While the study was mainly concerned with detecting content innovations, the pandemic and other drivers influencing the economy may also have contributed to increasing the use of online tools in collective bargaining processes or to extending or reducing the duration of these processes. Furthermore, innovations can include the introduction of entirely new topics in collective agreements or changes in how existing topics are dealt with in collective agreements. These innovations come out of negotiations among the social partners and reflect the interactions between different topics and practices, as well as the underlying strategies and medium- to long-term priorities and interests that determine the specific topics under discussion.
- Second, emerging practices and provisions can be distinguished according to what drives them and the conditions under which they emerge. COVID-19-driven changes have been notable in recent times, but there are other long-standing trends, including technological change and decarbonisation policies, that have also accelerated change in collective agreements.

While changes triggered by the pandemic may be temporary, linked to its duration (apart from the expansion of telework and the introduction of new health and safety topics), longstanding trends will continue to influence substantial developments in the economic and social domains and are likely to impact collective bargaining in the long term. In addition, framing these factors in terms of whether they are exogenous or endogenous can help to distinguish between the different forces at play. Endogenous change arises from negotiations among the social partners in a sector or company. It can be seen as a learning process, where actors in this sector or company have acquired knowledge that has facilitated the inclusion of new topics or processes in the bargaining process. By contrast, exogenously driven change is brought to the agenda by actors beyond the sector or company. This includes the social partners importing practices observed in other sectors or companies and the role of governments (regional, national or European) in shaping the bargaining agenda.



**Table 2: A typology of emerging practices and provisions linked to drivers of change in collective agreements**

Type	Subtype	Driver of change			
		Changes triggered by the COVID-19 pandemic	Structural drivers		
			Structural changes (mostly twin-transition-related)	Endogenous factors (mostly sector specific)	Exogenous factors
Process	Emerging practices (entirely new aspects of collective bargaining processes)				
Content and outcomes	Emerging topics (entirely new content collective agreements)				
	Changing topics (existing content in collective agreements has been adapted)				

Source: Authors

Although the boundaries between the types of practices or provisions and the drivers of change are not always clear, and drivers are frequently combined or overlapping, these distinctions served to guide the analysis, which bears in mind that one practice or provision may be linked with more than one driver.

The research was conducted between October 2021 and February 2022. Since collective bargaining was paused during the first half of 2020 in many Member States as a consequence of the COVID-19 pandemic, the second semester of that year was set as the starting point for the identification of emerging practices and tendencies in collective agreements. However, a few interesting collective agreements reached before the outbreak of the pandemic and still valid during the reference time frame were included to illustrate emerging practices that are likely to be continued and expanded.

### Fieldwork and reporting

Interviews were conducted with national negotiating or signatory parties involved in each selected collective agreement. Both sides (employer and worker representatives) were contacted in all cases, but replies were not received from both sides in every case. Desk research was carried out and, if the nature of the collective bargaining process, sector or company involved in an emerging practice required it, additional interviews were carried out with other worker or employer representatives or with national-level experts

on collective bargaining who could provide background information on the sectoral context. Additional interviews were carried out, for example, if there was a large number of parties involved on each side, sometimes with very different views. Guidelines for interviews were prepared to ensure that the fieldwork was conducted in a consistent manner. Contributors to the research produced synthesis reports using a common structure provided by Eurofound and focusing on the main findings and limitations of the research.

### Structure of the report

Following this introduction, the report comprises four chapters. Chapter 1 provides an analysis of the impact of the COVID-19 crisis and new practices and provisions incorporated into collective bargaining during that period. Chapter 2 analyses how structural drivers and tendencies are influencing emerging practices and provisions based on the selected cases and assesses the capacity of collective bargaining to proactively include new elements in agendas and processes for bargaining. Chapter 3 consists of a discussion of the factors influencing the introduction of innovative practices and provisions in collective bargaining and the extent to which the developments analysed can be connected with other practices or content within the same collective agreements. Chapter 4 discusses the key findings from the analysis and presents policy pointers based on them.

# 1 Emerging practices and provisions arising from the COVID-19 crisis

## Disrupted negotiations

Like nearly all aspects of life, collective bargaining was disrupted by the outbreak of COVID-19 in the first half of 2020. Many Member States declared a state of emergency or similar during March and April, and lockdown measures were introduced that brought most economic activities to a standstill. Labour markets were negatively impacted, and collective bargaining across the EU was severely slowed down.

During the first months of the COVID-19 pandemic, from March to June 2020, many negotiating parties decided to put collective bargaining negotiations temporarily on hold or to postpone them. For example, during the most turbulent months of the crisis, the **Swedish** social partners had planned to renew sector-level agreements covering approximately three million employees. However, according to the Swedish National Mediation Office, they agreed to defer bargaining by seven months. The same thing happened in **Czechia** in the banking and chemical sectors. Similarly, negotiations were postponed for five months in **Italy**. In **Slovenia**, many social partners ended practically all communication at sector level, with most collective bargaining processes blocked as a result.

National regulations or practices related to extension mechanisms, or their validity and time of expiration, were essential in dealing with these non-renewed collective agreements. This was the case in **Spain**, where, according to the actors interviewed, there were no major problems in extending collective agreements during the pandemic, since all actors were aware of the exceptional conditions. Whenever a collective agreement expired without having been renewed or replaced and where the rules for renewal were unclear, the negotiating parties agreed to abide by its conditions until a new agreement was negotiated. Negotiations were postponed until face-to-face meetings could be resumed. Similarly, until collective bargaining resumed in **the Netherlands**, negotiating parties tended to extend collective agreements expiring in 2020 by using temporal extension clauses. Both sides had the same priority when bargaining resumed: to establish new collective agreements that would offer people security during this turbulent time. (Box 1 describes some temporary arrangements agreed by the social partners during the crisis.)

Negotiations were postponed not only because bargaining meetings could not be held in person, but also because employer and worker representatives were unwilling to negotiate wage increases during a period of severe economic uncertainty.

### Box 1: Special temporary arrangements in the Netherlands

In the Netherlands in 2020, the social partners in many sectors with a collective agreement in force held talks to discuss the consequences of the pandemic for their work and their sector (covering, for example, safety issues, remote working and the right to disconnect). These special discussions often led to temporary informal agreements that were not incorporated into existing collective agreements.

In a few sectors in which new negotiations had started when COVID-19 struck, the negotiating parties decided to come to a temporary crisis agreement; examples include the 2020–2021 collective agreement for motor vehicle and two-wheeler companies and the collective agreement for the information, communications and office technologies industry.

The social partners also looked beyond their own sectors to learn from protests in other industries (such as in the metal industry), and, in order to prevent these kinds of protests, various parties made concessions.

## Reacting to public policies

The health crisis had an uneven impact on different sectors of the economy. It brought some sectors to a standstill, including service sectors such as hotels and catering, large parts of the retail sector, the entire cultural sector and some creative industries. Other sectors saw increased demand and profited from it, such as medical device manufacturing, security services, and supermarket and online retail. Industrial sectors were badly affected at the beginning of the pandemic but had already started to recover during the second half of 2020. In some cases, sectors such as the car industry, had been undergoing prolonged structural transformation long before the pandemic. This uneven sectoral impact was reflected in collective bargaining dynamics.

During the first phase of the pandemic, Member States implemented a range of policy measures to reduce the impact of the crisis, mainly short-time working or similar schemes to protect employment (Eurofound, 2021a). An estimated 20% of the workforce benefited from these measures at some stage during 2020 (Eurofound, 2021b). There was a high degree of uncertainty about how government policy measures targeting support for employers and employees would develop, with negotiating parties often pausing negotiations while awaiting further information. For example, in **Sweden** social partners agreed on short-time working agreements after it became clear that, for employers covered by collective agreements, coverage by a short-time work agreement at sectoral or company level would be required for them to receive a short-time work allowance from the government under the temporary short-time working scheme.

In **Italy** and **Spain**, a national state of emergency triggered tripartite social dialogue that resulted in negotiated strategies to support jobs and ensure business continuity, as well as agreement on urgent measures to address health and safety issues in workplaces. For example, in **Italy**, a joint protocol specifying measures to prevent the spread of COVID-19 in workplaces was signed on 24 March 2020 by a large number of trade unions and employer associations – including the most important national ones – under the auspices of the government. The agreement aimed to protect workers' health and ensure safe conditions in all workplaces, in compliance with the guidelines formulated by the Ministry of Health on risk management of COVID-19 in the workplace. The protocol was renegotiated and revised on 24 April 2020 and attached to the Prime Ministerial Decree of 26 April 2020 (Eurofound, 2020a).

## Moving negotiations online

After the initial disruption to collective bargaining processes, some negotiating parties moved to start or restart negotiations, mainly using online communications, as it was very difficult or inadvisable to meet in person. Governments helped to facilitate remote collective bargaining. The **German** law aimed at mitigating the consequences of the COVID-19 pandemic specified that employer organisations and trade unions could hold meetings of their members virtually. In **France**, the government adopted legislative measures to facilitate the remote negotiation and signature of collective agreements.

Two cases of successful online negotiation of a collective agreement demonstrate the challenges associated with bargaining in a virtual environment and the mechanisms used to overcome them. In the case of the collective agreement of the nationwide supermarket chain Covirán in **Spain**, the social partners decided to opt for online bargaining for two reasons. First, there was an urgent need to renew the collective agreement in the context of workers' demands for recognition of the extra effort they had made during the pandemic. Second, some restrictions on travel within Spain persisted, making it impossible to meet in person with worker representatives from certain regions. Aware of the challenges of online bargaining, the trade unions and the company sought assistance and support from the Andalusian Employment Relations Council, a regional institution responsible for monitoring developments in industrial relations and helping to resolve industrial disputes. A team of three people from the council was involved throughout the bargaining process, providing technical support and advice to the actors involved.

The second case, from **Sweden**, is that of the collective agreement of the Church of Sweden, where the decision to shift to online bargaining was motivated by the tightening of travel restrictions and social distancing requirements. The actors involved in this case did not seek the assistance of a third party. They aimed to overcome the difficulties of online bargaining by simplifying negotiations through a reduction in the number of issues on the agenda.

When it became clear that the pandemic would last for a long time, most social partners decided to take up negotiations once again. In **Italy**, negotiations restarted, usually remotely and in particular between national officials and shop stewards. Collective agreements that the parties agreed on were signed electronically. By contrast, in **the Netherlands**, all negotiating partners favoured physical meetings over online negotiations. In some cases, the parties started negotiations digitally but decided to continue or finish them in person.

In **Slovenia**, while some actors found it easy to move online, others found it more difficult, which was



reflected in unconcluded agreements. These difficulties were not specific to any particular sector or either side in negotiations; rather, they were age-related. Some older participants on both sides who were not familiar with digital tools had difficulty adapting to online communication. Another hindering factor was the complexity of the issues under discussion. For example, negotiations on the wage model were difficult to conduct online, as supporting materials (diagrams and text) were required, rather than simply discussions.

However, despite the difficulties, the unprecedented situation did have some benefits. For example, some actors reported that online meetings were shorter and in some cases could be more efficient than in-person ones; instead of the usual very long discussions, the negotiating parties focused on the essential or most controversial content and reached agreement more quickly than they had tended to do in the pre-COVID-19 era.

Although the situation changed as restrictions came and went with the waves of the pandemic in 2020 and 2021, collective bargaining procedures increasingly involved hybrid negotiations. As in other areas of society, in collective bargaining, online meetings are much more commonly used than they were before the pandemic. However, negotiating parties consider online negotiations less personal, more uncomfortable and less likely to generate the necessary trust among the actors involved, particularly when attendees are numerous and meetings are lengthy. Therefore, online meetings are generally used as a tool to support face-to-face negotiations.

After the difficult months of the first phase of the pandemic, the priority became a gradual return to normality, while maintaining all the precautions necessary to limit contagion in the workplace.

## Changes to negotiating agendas

In relation to the content of negotiating agendas, the impact of the COVID-19 crisis was also significant, leading to an expansion of topics discussed, primarily those related to health and safety in the workplace. As the impact of the pandemic differed across sectors and Member States, collective bargaining agendas and the priorities of the negotiating parties also differed. Apart from dealing with the immediate consequences of the pandemic through agreements focusing on securing and safeguarding employment, discussions on wages continued to dominate the negotiation agenda once bargaining restarted.<sup>2</sup> What was new in this regard was that the role played by the state, through the roll-out of

various types of policy interventions, was key to maintaining wages in the private sector and also for public sector employees.

## Health and safety

Alongside wage setting, collective bargaining mainly addressed the effects of the pandemic, which was reflected in the conclusion of agreements on health and safety issues. These focused particularly on those sectors in which employees were more likely to be exposed to the spread of COVID-19, with negotiations addressing the organisation of working time and shift patterns to make it possible for workers to observe distancing requirements.

In **Italy**, the 2020 protocol to ensure safe working conditions in the workplace was implemented and transposed into legislative and administrative acts. Bipartite cross-sectoral protocols signed by the most representative social partner federations outlined general guidelines intended to guarantee the maximum possible degree of safety in all workplaces. Various measures were implemented, including changes in working time and, above all, the use of so-called ‘smart working’ or ‘agile work’. Industry-wide collective bargaining, and bargaining at local and company levels, further specified and adapted those preventive measures. (See Box 2 overleaf for further details.)

In **Spain**, bipartite committees on occupational safety and health were created or revitalised to deal with COVID-19-related challenges in workplaces, while the contents of collective agreements in this area were updated and augmented.

## Crisis-related provisions

The COVID-19 crisis also led to the emergence of ‘crisis-related clauses’, which have taken many forms and have offered opportunities to experiment with innovative clauses and mechanisms. In the case of **Sweden**, the crisis agreement reached in the healthcare sector builds upon a similar agreement signed in the context of the forest fires of 2018. The objective of this agreement is to prevent situations in which a lack of available workers (due to specific events such as a natural disaster or an economic crisis) could endanger the delivery of essential services. The agreement allows for a temporary increase in pay accompanied by an increase in working time, changes in work organisation and mechanisms enabling workers to relocate. This agreement demonstrates the potential of collective bargaining to play a proactive role in the development of innovative responses to crisis situations, and to do so by striking a balance between employers’ needs and

2 Overall, average real wages in most Member States increased in 2020, albeit at a lower rate than in 2019 (Eurofound, 2021c).

## Box 2: The 2020 Italian protocol on health and safety

In Italy, a cross-industry joint protocol was signed on 14 March 2020 to regulate measures designed to combat and contain the spread of COVID-19 in workplaces. Subsequently, during the spring of 2020, the sectoral social partners in most sectors signed national protocols, transposing and adapting the protocol. These texts were mostly negotiated and signed online, establishing, among other measures, personal protective equipment for all workers; physical distancing, with separate entry and exit routes; desynchronised working times and breaks; a reduction to the minimum of movement within the workplace; and remote meetings. These agreements reasserted the responsibility of trade union representatives for health and safety in the workplace and reinforced the importance of their role in checking compliance with the agreed procedures. Almost all the protocols envisaged the establishment of ‘company committees for restarting’ to deal with the full resumption of production activities and navigate the participatory system of information and consultation rights.

A new national protocol on combating COVID-19 in the workplace was signed on 6 April 2021, updating the previous one. It included the setting up of COVID-19 vaccination points in workplaces. This extraordinary measure was aimed at accelerating the implementation of the national vaccination plan.

those of employees. Swedish law does not allow for the possibility of declaring a state of emergency, and this case is an example of the key role that collective bargaining played in leading policy responses to the COVID-19 crisis in countries with limited state intervention in industrial relations.

Although the COVID-19 crisis triggered the establishment of temporary mechanisms to cushion the effects of the crisis, it nonetheless also obliged some companies to make redundancies. The case of the branch of US Steel in Košice in **Slovakia** provides an example of innovation in relation to mechanisms regulating mass redundancies. Provisions incorporated in US Steel Košice’s collective agreement regulate mass redundancies arising from structural labour market changes; they establish the order of redundancies and set out commitments to the core workforce (including regarding reskilling and training). The agreement stipulates that, if redundancies are necessary, the employee should have the opportunity to voluntarily terminate the contract by agreement with the employer in return for severance pay and in agreement with the trade union. Only as a last resort can the employer proceed in accordance with the Labour Code and its provisions on collective redundancies.

A different type of crisis agreement was negotiated in the **German** metal and electrical industry in North Rhine–Westphalia in 2021.<sup>3</sup> The IG Metall trade union and the employer organisation Metall NRW signed a pilot agreement to address the acute problems arising from the COVID-19 pandemic as well as the structural challenges posed by the transformation of various industries. The pandemic placed a huge additional burden on many companies in the automotive and supplier industries, since they have, for example, to

shoulder the high investment costs associated with the major challenge of transformation and the high costs of the energy transition. The innovative pilot agreement – resulting from a new strategy to guarantee jobs, manage transitions and react to crisis situations such as COVID-19 – has three outcomes. First, it secures employment, as it provides for partial wage compensation when working hours are reduced and the introduction in companies of a four-day working week. Second, it stipulates that future collective agreements will promote proactive action in the event of structural changes in a company. Third, it stabilises employees’ purchasing power, providing a COVID-19 bonus in 2021 and a transformation allowance (‘T-money’) from 2022 (see IG Metall, 2021a).

In **Slovenia**, ‘special burden’ benefits (or COVID-19 benefits) were introduced in collective bargaining, acknowledging that the added stress of working during a health crisis (for example, working with masks and other safety equipment), especially in physically demanding jobs, should be recognised through additional payments. The multi-employer collective agreement for public utility services requires employers to pay this benefit when employees are exposed to health risks (such as a higher likelihood of infection), but only when an epidemic is formally declared. In other circumstances, the social partners at company level must agree on benefits (for example, when a high number of infections occur without an epidemic being declared).

### Expansion of telework

After the outbreak of the pandemic, remote work quickly moved onto the agenda of the social partners at all levels, although there were large differences in the extent of teleworkable jobs across Member States, sectors and occupations. The crucial role played by

<sup>3</sup> In many other regions, IG Metall and employers have adopted the same approach in collective bargaining, with slightly different but equivalent provisions in some cases. In Baden-Württemberg, for example, there are special rules on job security and dual students (IG Metall, 2021b).

telework during the health crisis has been extensively acknowledged and researched (Joint Research Centre, 2020). New provisions on telework in sector- and company-level collective agreements are a direct consequence of pandemic lockdowns and the resulting increase in working from home.

In **the Netherlands**, new priorities on the negotiating agenda in several sectors included the right to work remotely, the right to disconnect, allowances related to working from home and green mobility arrangements. These topics reflect trends, accelerated by the pandemic, that had already been set in motion by longer-term drivers such as technological change and decarbonisation and climate-neutrality policies.

In **Italy**, the existing 2017 legislation entitling companies and employees to benefit from ‘agile work’ was updated through collective bargaining. Sector- and company-level collective agreements set out some fundamental rules relating in particular to hybrid working, companies supplying the necessary technologies, working time availability, the right to disconnect and respect for workers’ privacy. There was a huge shift to remote work during 2020, which has been gradually reversed, especially in the public sector (including in schools and universities).

On 7 December 2021, at the Ministry of Labour, all the major organisations representing the social partners signed a national protocol on agile work in the private sector. The protocol recognises the primary role of collective bargaining by the most representative trade unions at national and company levels, unlike the 2017 law, which did not assign any role to collective bargaining. Agile work does not change the system of trade union rights and freedoms, and the protocol specified that the social partners were to identify specific ways for remote workers to exercise these rights through bargaining.

In **Portugal**, the pandemic functioned as an accelerator of digitalisation, particularly in the form of a massive expansion of remote working. Trade unions saw this as a major driver for new regulation of telework. However, negotiations on this topic failed because employers argued that a legislative process was ongoing at that time. However, a collective agreement signed by various banks and by the Banking, Insurance and Technology Union (Mais Sindicato) and the Bank Employees’ Union of Central Portugal (SBC) introduced an obligation to respect employees’ right to disconnect as well as protection of workers against abuse by employers and in cases of domestic violence.

In December 2021, the parliament approved a set of amendments to the Labour Code (Law 83/2021) establishing new legislation on telework and workers’ rights in relation to telework – covering the right to request telework, the employer’s duty to refrain from

contacting workers during rest periods, management of workload, prevention of psychosocial risks, and expenses and compensation for costs, among other issues – as well as the role of collective bargaining in the regulation of telework.

In **Spain**, negotiations on provisions on telework in collective agreements initially increased as a result of the first lockdown. Since then, legislation on remote work has been passed, leaving it to the social partners to negotiate conditions to be set out in collective agreements, which has led to the expansion of these clauses in many collective agreements.

In **Slovenia**, the national social partners agreed on legislative changes regarding the taxation of the compensation paid to workers for using their own resources while working at home. The proposal was also discussed in the national Economic and Social Council. However, the legislative proposal was not enacted, which put additional pressure on the social partners to reach agreements at sector level. As a result, telework was regulated through collective agreements for the first time. This was the case for the graphic design sector, where the collective agreement provided a framework for this form of work, covering the conditions under which an employee may work remotely, the right to disconnect, and health and safety issues.

### Specific topics at national level

During 2020–2021, other topics for negotiation arose, in part from the pandemic but also connected to specific national characteristics of employment and working conditions.

In this regard, the renewal or update of – or even first-time agreement on – collectively agreed regulations on short-time work were high on the negotiating agenda in **Czechia**. (Box 3 overleaf describes trade union efforts in Czechia to reduce working time generally.) Similarly, the negotiating parties in **Slovenia** discussed working time arrangements, encouraged mainly by government interventions on subsidised part-time work and temporarily laid-off workers. Here, another topic on the collective bargaining agenda associated with the COVID-19 crisis was pay premiums for working in high-risk situations. This debate began in the public sector shortly after the outbreak of the pandemic: under the collective agreement for the public sector, civil servants are entitled to a bonus of 65% of the hourly rate of a civil servant’s basic salary for working in high-risk situations, which include epidemics. The introduction of these additional payments triggered pressure in the private sector, as many private sector employees were in similar or more high-risk situations. Some sectors and companies introduced similar provisions in collective agreements, but not all.

### Box 3: Working time reduction in Czechia

Trade unions across sectors in Czechia have sought to introduce the topic of reduced working time into collective bargaining but have not been successful. The working hours of Czech employees are long compared with those of workers in other Member States. Recently, debates about future structural changes in the labour market have reinforced this agenda, and the Czech-Moravian Confederation of Trade Unions (ČMKOS) has demanded the introduction of five weeks of annual leave for employees and reduced weekly working hours.

In the public sector, workers are already entitled to five weeks of annual leave, but in the private sector the situation varies because the amount of annual leave is set in company-level agreements. According to statistics on provisions in collective agreements, the average maximum working week established in these agreements is 39.7 hours, while the maximum under national law is 40 hours. The shortest weekly hours are in logistics and transportation (37.5 hours). In the chemicals industry, a maximum of 37.8 hours can be worked in a single week; over three weeks, average weekly hours must not exceed 37.5 hours (Czech Information on Working Conditions Survey, 2021).

Most innovative practices in **Italy** relate to work organisation, and in particular employee well-being and individual rights. The latter include rights in relation to agile work, with precise specifications in collective agreements regarding training, the provision of equipment and tools for remote working, workers' privacy, working time and the right to disconnect. Other initiatives relate to combating harassment and discrimination, work-life balance, the protection of vulnerable workers and specific categories of workers, and the issue of equal opportunities, on which ad hoc joint commissions work. Further emerging practices include provisions in collective agreements covering innovation and digitisation and clauses linked to working time that favour flexibility.

## Overall effects on collective bargaining outcomes

By far the most widespread outcomes of collective bargaining arising from the pandemic have been amendments to collective agreements to ensure and update the management of health and safety issues in the context of COVID-19 and increased remote working. In addition, it has increased the use of online communication in negotiations between employee representatives and trade unions and employer organisations.

Although data on the termination of collective bargaining rounds and the signature of new or renewed collective agreements are not available for most Member States, it is clear that postponements caused by the pandemic led to an overall decline in the number of collective agreements signed during 2020. A reduction in industrial disputes was also observed,

although there were sectors in which there were clashes and protests during the pandemic, for example the metal industry in **the Netherlands**. In most of these cases, relations between the negotiating parties had been difficult long before the pandemic started and were further strained during it. Industrial action was reported in some Member States; for example, wage freezes for 2021 led to action in Estonia, and working conditions triggered industrial action in Hungary, Ireland and Latvia (Eurofound, 2021d). In many sectors affected by the crisis in **Germany**, the postponement of negotiations led to wage levels being frozen (WSI, 2021).

The data that are available on collective agreements signed during 2020 show significant variation among Member States. In **Portugal**, the pandemic reduced the number of collective agreements signed, but it seems that it did not have a major impact on the topics and priorities of the negotiation agenda. In 2020, there was a significant reduction in the number of negotiated collective agreements<sup>4</sup> published by the Ministry of Labour (-22% compared with 2019) and in the number of workers covered by the agreements (-45% compared with 2019). In 2021, the number of agreements rose by 9%, while the number of workers covered grew by 30%. **Spain** registered a remarkable decline in the number of collective agreements signed, from 6,880 in 2019 to 2,677 in 2020, a 61% reduction.

Overall, in the Nordic countries, the COVID-19 pandemic and the subsequent social and economic crisis had little impact on sector-level collective agreements. The agreements were flexible enough to be applied to telework or other new circumstances arising from the exceptional situation. For example, in **Sweden**, the applicability of collective agreements to new situations such as telework was not called into question. Instead

<sup>4</sup> These negotiated agreements exclude extension orders and labour regulation orders issued by the Ministry of Labour.

of negotiating new or specific agreements, the partners on both sides stressed the need for dialogue between employers and employees. The only significant exception was the implementation of the temporary short-time working scheme through collective agreements at sectoral and local levels in the private sector (Eurofound, 2020b).

In **Italy**, emerging practices and provisions were mainly reported at the level of decentralised bargaining. This has always been the situation in Italy, however, with sectoral collective bargaining implementing innovative content first introduced in individual companies, especially larger ones, which are inclined towards socio-organisational innovation and are highly unionised.

In the central and eastern European Member States examined (**Czechia**, **Slovakia** and **Slovenia**), the impact of the COVID-19 pandemic was not clearly visible in the

negotiation agendas, except with regard to the regulation of aspects related to telework (such as the costs associated with working from home). This can be explained by the fact that collective bargaining in these countries is rarely an arena for introducing new topics, since state intervention through regulation is usual, and collective bargaining at sector level is weak. New labour market challenges are not generally addressed initially through collective bargaining; rather, national-level legislation tackles these issues, and the social partners implement the legislation in collective agreements. For example, in **Slovenia**, the lack of innovation in collective bargaining relating to increased telework during the pandemic can be partly attributed to the existing legislation: working from home was already regulated by law, and therefore there was no real need for negotiations on the issue.





## 2 Emerging practices and provisions arising from structural changes

As a mechanism governing employment relations and the labour market, collective bargaining is under constant pressure to change, in terms of content and processes. The drivers of this change are similar to those affecting the labour market. Some of them are structural and reflect long-term developments, including the digital transformation of work and the associated changes in the occupational structure, the transition to a low-carbon economy, and demographic change. Others have a more short-term or temporary character, resulting from economic cycles or disruptive developments such as the COVID-19 crisis. None of these drivers operates on collective bargaining in isolation. They interact with each other in different ways. Thus, the COVID-19 crisis has accelerated structural trends in the labour market and employment, including the digital transition, but also, perhaps less obviously, the green transition. Similarly, an ageing population also has important consequences for new skills demands in the labour market and training requirements.

The extent to which these drivers affect the content of collective agreements or result in changes to bargaining processes is determined by various factors, including the institutional framework, the sector, and the type of company or the social partners' characteristics. This chapter summarises the main cases of emerging practices and provisions in collective bargaining driven by structural change that were identified in the research. The discussion is structured around the main structural drivers of change, including the green transition, the digital transition, and demographic change and workforce ageing.

### Green transition opening up new areas of cooperation

The green transition constitutes one of the major sources of innovation in collective bargaining. Issues connected with decarbonisation and the green transition more generally – unlike those related to digitalisation or demographic change – have traditionally remained outside the scope of collective bargaining. Only recently have trade unions and employers started to negotiate on some issues in this

area. However, this extension of the scope of collective bargaining has so far taken place largely in companies undertaking activities to which the green transition is particularly relevant, such as public utilities.

Emerging practices have been observed in two areas. The first is the creation of specific instruments for worker participation in decision-making on issues related to the green transition. An example of this is the sectoral collective agreement on integrated water cycle management in **Spain**, which provides for the creation of a joint committee with worker representatives to be consulted and offer advice on matters related to the green transition in the water sector.

Similarly, an important collective agreement for the energy sector has been concluded in **Italy**, where the social partners and the energy company Eni signed the *Insieme (Together) Protocol* on an industrial relations model to support the green transition. This protocol, signed in December 2020, provides for an information and consultation system that is articulated to some degree. According to the protocol, any planned changes must be disclosed to worker representatives in a timely manner, to enable a discussion of possible solutions to mitigate potential negative effects of the change.

In addition to these new processes and bodies arising from changes to collective agreements, innovative clauses related to the green transition are gradually finding their way into collective agreements. In some cases, these are closely related to other developments, such as digitalisation and technological change. This is the case with regard to the Royal Dutch Touring Club (ANWB) collective agreement in **the Netherlands**. This agreement demonstrates how digitalisation and the green transition interact with and reinforce each other. Aiming to enable the company to reach its zero emissions goal, the ANWB collective agreement stipulates that employees will receive compensation not only when they travel for work but also when they work from home. In fact, ANWB's hybrid scheme has been designed to reward workers for environmentally friendly decisions about travelling (or not travelling) for work through higher compensation. On 1 January 2021, the existing scheme, under which employees received a fixed monthly allowance for commuting, was replaced by an allowance per kilometre actually travelled.

## Box 4: Social dialogue on the climate-neutral economy

In general, examples of initiatives by the social partners, including collective agreements, addressing the potential undesirable consequences of the transition to a climate-neutral economy are still relatively scarce across the EU. There are a few cases, however, illustrating how the social partners, sometimes in bipartite or tripartite settings (for example, in the Polish mining sector and the Spanish electricity sector) and at all levels (from EU level to company level), are working together in the context of the transition.

Sectoral examples include a tripartite just transition agreement signed in April 2020 by the employer organisation in the **Spanish** electricity sector, the Ministry of Labour, the Ministry of Ecological Transition, the Trade Union Confederation of Workers' Commissions (CC.OO) and the General Union of Workers (UGT). It establishes a framework for the conclusion of regional agreements aimed at cushioning the impact of coal-fired power plant closures.

In **Poland**, the Social Agreement on the Transformation of the Hard Coal Mining Sector and Selected Transformation Processes of the Silesian Province of 28 May 2021 involved the government, trade unions, mining companies (mainly state-owned) and local authorities. It stemmed from a bilateral agreement between the government and the unions on 24 September 2020 on systematic solutions for phasing out mining activity in the region.

In addition to addressing financing mechanisms for companies and specific investments in infrastructure, the agreement set deadlines for the completion of hard coal mining in individual mines (until 2049), the establishment of the Silesia Transformation Fund, and employment guarantees for employees employed on 25 September 2020. In the short term, it envisages the reallocation of employees between mines as they gradually close, as well as the entitlement to certain benefits for those who will be left without work (such as mining leave, one-off severance pay and training programmes to acquire new qualifications). Detailed regulations are to be included in future law. The agreement also addresses the issue of transformation of the entire region with the creation of the Silesia Transformation Fund, although the agreement also covers the Bogdanka mine, the most profitable one, in the eastern part of the country.

Another example of a sectoral agreement can be found in the **Italian** electricity sector. The renewed industry-wide agreement signed on 9 October 2019 created a single framework covering all workers in the sector, including those in renewable energy and those in commercial and sales activities. Among other objectives, the agreement includes a special provision on training to ensure employability and support during the energy transition (Eurofound, 2021e).

## Multidimensional impact of digital transition

Technological change and digitalisation constitute one of the most important drivers of change in employment relations today. The many facets of the digital transition manifest themselves in diverse ways across sectors and companies, leading to a wide variety of impacts and developments.

Telework or mobile work is one of the most prominent developments related to digitalisation; the inclusion of provisions on telework in collective agreements gained momentum in the context of the COVID-19 crisis, although in some countries the regulation of telework through collective agreements was not a new development. For example, a collective agreement on mobile working in the **German** metal and electrical industry was signed in 2018. With the agreement, the social partners in the metalworking industry responded to developments in the sector and in particular in larger companies by offering white-collar employees opportunities to work remotely. The agreement complements the Regulation on Telework and the

Ordinance on Workplaces that implements the European framework agreement on telework of 2002. The ordinance defines telework as work done in a workplace permanently set up by the employer in the private sphere of the employee; the employer must have agreed on weekly working time with the employee and have specified the duration of the set-up. The employer and the employee must work together to ensure that a permanent workstation with the proper work equipment, furniture and telecommunications tools is set up in the place where the worker will be working remotely. By contrast, occasional work from home or elsewhere (referred to in the German debate as 'mobile working' or 'working from home') using a private laptop or other mobile device is not covered by the German legislation.

Similar emerging provisions on telework were identified in **Czechia**, where the collective agreement in the banking sector specifies the rights and obligations of employers and employees working remotely, including the right to disconnect. Moreover, clauses of that nature were also incorporated into company-level agreements in the metal sector during 2021.



There are cases of public sector collective agreements in which digitalisation clauses have been included. In **Germany**, the collective agreement on digitalisation in the federal government signed in 2021 includes a framework for managing the digital transition. The collective agreement includes a number of provisions that will apply if certain conditions are met. More specifically, the agreement states that these provisions will apply if digitalisation results in a significant change in work processes (work technology, work organisation or both) in a department, leading to a significant change in job requirements or job conditions (having significant effects on personnel such as, in particular, a change in the place of work, the need for different qualifications or a change in salary grade). There are provisions on job security, establishing mechanisms to secure equivalent jobs and compensation if as a consequence of digitalisation there are job losses or job downgrading. But there are also provisions on skills and qualifications intended to guarantee that employees receive the necessary training to adapt to new jobs and functions assigned to them, provisions on relocation allowances for employees who have to permanently change their place of employment and provisions setting out the conditions under which mobile forms of work are permitted.

In a rather different context, but sharing the goal of providing a framework for managing the impact of digitalisation, the collective agreement covering large retail companies in **Spain** contains a package of measures designed to enable the sector to undergo a just digital transition and face the challenges deriving from increased online trade. It regulates e-commerce work on Sundays, making it voluntary, rewarding it with a 30% increase in hourly pay and one extra day of leave, and limiting the number of consecutive Sundays that can be worked to five. Moreover, the agreement also provides for the establishment of a sectoral observatory that will function as a forum for social dialogue and collective bargaining on matters of common interest. The parties signing the collective agreement have agreed to use the observatory to analyse developments in the sector, with a particular focus on changes triggered by digitalisation and the impact on consumer trends.

Another emerging topic in employment relations in the context of digitalisation is the introduction of artificial intelligence mechanisms and algorithms by companies. These instruments pose several challenges for collective bargaining, including the lack of transparency about the data used and how algorithms are designed, the limited access of worker representatives to these instruments, and issues related to privacy and data protection. The banking sector in **Spain** has been one of the first to regulate the use of artificial intelligence. The agreement in question deals with a number of issues, including telework, wage increases and wage guarantees in a context of increasing inflation. But the most innovative aspect of this collective agreement is that, for the first

time, it establishes that companies have a duty to inform the employee representatives about the algorithms used by data analytics or artificial intelligence systems in the field of human resources and employment relations at workplace level, to explain the operating logic behind them and to give an account of how the results are evaluated.

## Skills and training: Adapting to changes in labour markets

Changes in the labour market have a direct impact on the skills composition and requirements of workers, which demands continual adaptation on the part of firms and their workforces. With digitalisation, these changing requirements have gained momentum, putting pressure on collective bargaining systems to facilitate the digital transition of companies and maintain workers' employability. Several of the collective agreements analysed have accordingly included innovative clauses relating to skills and training policies.

Skills shortages are behind a plan to attract and retain young workers in the motor vehicle and two-wheeler companies sector in **the Netherlands**. Technological transformations, such as the development of electric vehicles, require new expertise and skills in the sector, where there is already a shortage of workers. Since apprentices are usually working on short-term contracts, they are also the first employees to lose their jobs in times of crisis. A new provision included in the relevant collective agreement establishes that employers will receive financial compensation from a training fund for first-year apprentices entering the sector.

One interesting case can be found in **Italy**, where the collective agreement in the metalworking sector confirms training policies agreed in previous years, including the right to training and shared governance of the training system. However, it adds two innovative elements relating to skills. First, the project DigitalMEC ('Digital literacy of workers in the metalworking industry and plant installation') aims to help workers at all levels to acquire digital skills. Second, the agreement overhauls the job classification system, removing the old division between blue-collar workers and white-collar employees.

A similar case was reported in **Germany** relating to the chemical and pharmaceutical industry collective agreement. The so-called 'qualification offensive' set out in the agreement is designed to train employees to meet new requirements resulting from digitalisation and includes the development of a tool for analysing qualification requirements and the establishment of a lifelong learning advisory service in cooperation with the Federal Employment Agency.

The issue of reskilling and employability has also given rise to emerging practices in eastern European countries. In **Czechia**, a bipartite document signed by the trade union confederation ČMKOS and the main employer organisation, the Confederation of Industry of the Czech Republic (SP ČR), contains a proposal for a lifelong learning policy related to digitalisation and automation. Although this is not a collective agreement, it is expected to have a significant impact on collective bargaining at sector and company levels. The peak-level agreement aims to provide a framework for skills and training policies agreed through decentralised collective bargaining, in which qualifications are not usually a subject of negotiations, with retraining of employees mostly regulated by internal company rules.

Similar clauses have also been introduced in collective agreements in the steel, metallurgy and mining industry in **Slovakia**. In this case, two types of policies have emerged. First, there has been an attempt to address

workers' employability and adaptation to structural change by introducing a right to training and reskilling. The trade unions' idea was to establish a sectoral guarantee of five days' training for each worker as a minimum entitlement. Negotiations at company level would then result in provisions in collective agreements implementing this retraining entitlement or even setting a higher number of days. The second policy involves the establishment of a general framework to avoid redundancies arising from the implementation of new digital technologies by retraining or reskilling employees and reassigning them to another position with the same employer. A similar practice was introduced in the collective agreement of the technology company Dell in Slovakia in the context of increasing automation and technological change. The objective was to provide protection against sudden job loss and to create opportunities for employees to transition smoothly from one job to another.

### Box 5: Exogenous drivers of change in the labour market, job security and employment protection in Sweden

Over the past decade, Sweden has undertaken a thorough process of reforming job security regulations and redeployment support. This process consists of two parallel tracks: the agreement in principle that forms the basis for a set of legislative amendments (*principsöverenskommelse*); and the main agreement on security, adjustment and employment protection (*Huvudavtal om trygghet, omställning och anställningsskydd*) signed by trade unions and employer organisations.

The agreement in principle is essentially the social partners' proposal to the government for legislative changes. These changes refer to, but are not limited to, job security and in particular the order of priority rules linked to restructuring, regulation of fixed-term employment, agency work and the grounds for dismissing employees due to personal reasons. In addition, the proposal includes a new system for supporting further education of people actively participating in work. The state will also create redeployment support that provides guidance, advice and support for employees who have been dismissed (Government of Sweden, 2022). This agreement is now one of the three main agreements that frame collective agreements in Sweden.<sup>5</sup>

The main agreement on security, adjustment and employment protection is a collective agreement that will be implemented in parallel to the legislative changes. While the legal changes apply to all employers and employees in Sweden, this agreement will cover only those trade unions and employer organisations that choose to implement it.

Negotiation processes around both agreements have been intertwined and have not been without their tensions since the Swedish Trade Union Confederation (LO) initiated negotiations with the Confederation of Swedish Enterprises (SN) in 2017. Key concerns for LO were the increased use of fixed-term contracts, agency work and part-time contracts and how to improve retraining and redeployment support (Kjellberg, 2021). Meanwhile, SN wanted to negotiate changes to the 'last in, first out' rule, which meant that, apart from a few exceptions, the most recently hired employees were first to lose their jobs when job cuts were carried out for economic reasons. This can create a situation where newly recruited staff with relevant skill sets must leave the company, while workers with longer tenure but less crucial skill sets remain.

After long and complex rounds of negotiations and partial agreements and disagreements, in November 2021 LO became a signatory to the main agreement, which continued to cause frictions among LO-affiliated trade unions (Arbetet, 2021).

<sup>5</sup> The other two are the Saltsjöbaden Agreement of 1938 and the Industrial Agreement of 1997.

Since the Swedish legislative framework on job security dates back to 1970, it could be argued that exogenous structural changes (such as digitalisation and competitiveness in globalised markets and products) and the need for workers to have the skills sets for the changing environment, including lifelong learning, are the main drivers pushing the agreement. By increasing the number of people who can be exempted from the order of priority rules,<sup>6</sup> the reform adds some degree of flexibility, although the focus remains on skill sets and may also indirectly diminish the gap between older and younger workers. Furthermore, the reform will increase regulation on fixed-term contracts and agency work, and full-time contracts will continue to be the norm (Government of Sweden, 2022).

One of the characteristics of the Swedish labour market model is the limited influence of the state. In Sweden, collective agreements form the core of labour market regulation, although the representatives of the social partners interviewed for this study argued that the state has been increasingly involved in issues related to job security over recent decades.

The state has been strongly involved in the recent reforms, confirming the steady influence of governments in labour market regulation in Sweden (as in other EU Member States). Nevertheless, and despite the complex bipartite process, the social partners have been able to keep ‘ownership’, playing a central role in the design and the implementation of the reform, along with the state (financing some of the training and redeployment). The next large-scale round of collective bargaining will take place in 2023, when many of the collective agreements concluded in 2020 will be renewed. The extensive job security reform (both the agreement and the legislative changes) will also enter into force.

## Tackling labour shortages

Labour shortages are becoming increasingly common across the EU, especially in high-skilled occupations. Although the reasons behind these shortages are structural, the COVID-19 crisis has contributed to intensifying them. The need to tackle labour shortages has been reflected in collective bargaining, and the social partners have developed innovative approaches to attracting and retaining workers to their sectors. Two main approaches can be detected. The first focuses on attracting new workers by improving employment conditions in the sector. The collective agreement in the paper industry in **Slovenia**, for instance, has introduced new clauses that set a higher basic wage, making employment in the sector more attractive. Beyond the actual increase in wages, what is particularly innovative in the Slovenian context is the shared decision by unions and employers to work on improving the sector’s image. The second approach aims to retain workers by enabling them to acquire new skills, as in the motor vehicle manufacturing sector in **the Netherlands**.

## Pressure on wages

Wages came under pressure during the COVID-19 crisis and remain so with the increase in inflation across the EU as a consequence of higher energy prices following the war in Ukraine. During the pandemic, the social partners decided in many cases not to apply wage increases included in collective agreements (taking

advantage of hardship clauses) and to postpone renewals. The collective agreement in the information, communications and office technologies industry in **the Netherlands** took an innovative approach to handling this issue. The agreement strikes an interesting balance between investing in employees and allowing employers flexibility. It establishes an increased budget for training employees, as well as providing for an above-inflation wage increase and a framework regulation on remote working. However, if an employer is experiencing losses or is participating in a state-funded programme to maintain employment, the 2% wage increase does not apply.

In **Portugal**, temporary emergency agreements were negotiated between TAP Air Portugal and the trade unions representing its workers. These agreements suspended some provisions of the company’s collective agreements and amended others for a period of four years (2021–2024). The impact of the COVID-19 crisis was severe in the commercial aviation sector and obliged the government to intervene in the company to ensure business continuity. In July 2020, the government became the main shareholder, with a 72.5% share of the company (enlarged to 100% on 30 December 2021). Faced with an obligation to present a restructuring plan imposed by the European Commission as a condition to save TAP, the government and TAP administration needed to secure ‘credible’ restructuring measures to secure the approval of the plan by the Brussels authorities.

<sup>6</sup> While the legal amendment on the order of priority rules allows employers to make three exceptions (three employees) to the ‘first in, first out’ rule, the main agreement allows three exceptions per collective agreement and establishment. When it comes to advice and support for employees who have lost their jobs due to economic reasons, the legislative changes provide for a limited form of support, covered by the state. Those covered by the main agreement, on the other hand, will get access to a wider support package, which includes training and validation of work experience (Arbetet, 2021).

## Box 6: The challenge of labour shortages

Labour shortages are a transversal issue affected both by broad policy priorities linked to digitalisation and the EU's climate-neutral future and by overarching demographic developments. Furthermore, EU policies regarding mobility and migration and the labour market, education and training have an impact on the dynamics of labour shortages.

Unmet demand for labour increased overall in the EU between 2013 and 2019, with some significant differences between Member States. Measured in terms of vacancy rates, the most significant shortages are in Czechia, followed by Belgium, the Netherlands and Austria, while shortages are limited in Greece, Portugal, Poland and Slovakia.

The COVID-19 pandemic aggravated long-standing shortages in healthcare and ICT. Before its onset, the construction sector had witnessed the largest increase in shortages following its recovery from the impact of the 2007–2008 economic and financial crisis; manufacturing and services were also experiencing shortages, with notable differences between subsectors (Eurofound, 2021f).

This is the context in which the temporary agreements froze career progression and introduced cuts to nominal wages and wage complements. Although the agreements were negotiated, the social partners, and in particular the trade unions, were under strong pressure from the state to sign them. Otherwise, the government would have unilaterally applied the so-called 'surrogate

regime', which basically would have replaced temporarily the provisions of the collective agreements with those of the Labour Code. The signatory unions recognised the seriousness of the crisis and accepted the temporary alteration of working conditions 'to deal exclusively with the constraints caused by COVID-19' (Boletim do Trabalho e Emprego, 2021).

## Box 7: Sector-specific endogenous driver covering wage setting mechanism in Portugal

Trade unions from the two large Portuguese confederations, the General Confederation of Portuguese Workers (CGTP-IN) and the General Union of Workers (UGT), do not usually sign joint collective agreements; relations may even be openly conflictual at times. However, two unions affiliated to the separate confederations did so in 2020. The CGTP-affiliated Union of Janitors, Security Staff, Cleaning Personnel, Domestic Workers and Other Activities (STAD)<sup>7</sup> and the UGT-affiliated Federation of Trade Unions of Industry and Services (Fetese)<sup>8</sup> had signed separate collective agreements in 2015 with the employer organisation the Portuguese Association of Facility Services (APFS) in the industrial cleaning sector. APFS requested to cancel the agreement with STAD, which was considered a major obstacle to the general application of stipulations in the Fetese agreement. This request caused STAD/CGTP to approach Fetese/UGT proposing the creation of a common negotiation platform. After an intense process of confidence-building between both union organisations, they engaged in common negotiations with APFS, aiming to merge the two existing separate agreements into one new common agreement. This rare case of cooperation between unions belonging to different confederations was preceded by a similar successful experience in the private security sector in 2017, although in this case both unions had signed separate but identical agreements with the major employer organisation, the Association of Security Companies (AES).

The new collective agreement came into force on 1 January 2020 and covered approximately 50 companies in Portugal. In March 2020, the working conditions set out in the collective agreement were extended by ministerial order to the entirety of the sectors covered, specifically to the employers that are not affiliated to the signatory employer association and to their employees who are not affiliated to the signatory trade union associations.

The agreement contains two innovative provisions. The first obliges both parties to engage in mediation and arbitration procedures, with the aim of avoiding the unilateral cancellation of the agreement. This possibility has been planned for in the Portuguese Labour Code but has largely failed. Reaching this provision in the agreement protects all signatories against the unilateral withdrawal of the other parties, thus creating trust in the

<sup>7</sup> STAD is the largest trade union in NACE 812 (cleaning activities) and NACE 801 (private security activities).

<sup>8</sup> Fetese represents a group of trade unions: the Trade Union of Service, Commerce, Restaurant and Tourism Workers and Technicians (Sitese; national and cross-sector), the Democratic Union of Communications and Media Workers (Sindetelco; national and sector) and the Trade Union of Commerce, Offices and Services (Sindces; regional and cross-sector).

negotiation process that enables the parties to invest in new regulations and eventually in further innovative solutions.

The second innovation (unique to collective agreements at the time) was the inclusion of a wage setting mechanism guaranteeing that the wage of the lowest category (level 9) was at least 0.5% higher than the legal minimum wage and that the values of the higher categories would be increased by an amount equal to the absolute value of the increase applied to the lowest level. This creates an automatic wage-increase mechanism tracking increases in the mandatory minimum wage set by the government after consultation with the social partners, a different kind of sliding scale based on political decisions and not on inflation. This provision stems from the fact that, over the last 15 years, the legal minimum wage has been increased at a much faster pace than the average of collectively agreed wages and of paid wages, with the result that the share of workers earning the legal minimum wage has grown strongly.<sup>9</sup>

This regulation was agreed because cleaning is a low-wage sector, and a large part of the workforce is paid a wage close to the national minimum wage. In 2021, the signatories used the option of renegotiating the agreement after 20 months of validity and signed a partial revision on 29 December 2021 that came into force on 1 January 2022. The Ministry of Labour announced its intention to extend the revised agreement.

## Ageing workforce and demographic change

Demographic change and the ageing workforce are two closely related trends that are already affecting the labour market significantly, including in the form of labour and skills shortages. Collective agreements have started to include clauses and policies tackling the challenges posed by these structural changes. An emerging practice in the **German** chemical and pharmaceutical industry in relation to workforce ageing is the introduction of supplementary long-term care insurance, started in July 2021. This is the first measure of its kind to be agreed on in a collective agreement. It is granted without a requirement for a health examination. In the event that they require nursing care, the insured person receives €300 per month for outpatient care and €1,000 per month for inpatient care. The cost of €33.65 per month per employee is borne by the employer.

Interesting national-level innovations that are expected to extend in the coming months to collective agreements in **the Netherlands** are the early retirement scheme and the Generation Pact, driven by demographic change and accelerated by the COVID-19 crisis. The national pension agreement reached in 2019 established that employees with a physically demanding profession could be offered the opportunity to take early retirement. The Netherlands Trade Union Confederation (FNV) was the first to suggest this provision and incorporated it into its bargaining strategy for multiple sectors, one of which is the disability care sector. The Generation Pact consists of

measures aimed at enabling older employees (aged 57 and over) to continue working for a longer period while safeguarding their health and well-being; it also has the objective of creating more permanent jobs for younger employees (aged 35 and younger). Older employees are offered the possibility of working shorter hours, which makes their jobs less demanding. The hours that they do not work make a permanent position available, which can then be offered to a younger employee.

## Worker participation

Worker participation at company level is key to ensuring that measures to adapt to structural change have inclusive outcomes. For instance, the increased use by companies of data-intensive techniques and their application in many areas of management may undermine the role of worker representation structures. Measures to ensure participation in relation to the use and application of artificial intelligence tools have already been implemented in the collective agreement covering large retail companies in **Spain**. Furthermore, new structures for participation and involvement of employees have emerged in some sectors and companies in relation to the green transition.

The Electrolux integrative agreement in **Italy** has an entire chapter dedicated to the participation and involvement of workers, both indirect and direct, and innovative aspects were included in the last collective agreement signed in 2021. In the Italian industrial relations landscape, the Swedish multinational company Electrolux, which has nearly 5,000 employees and five major factories in Italy, is recognised for its strong participatory orientation. This dates back to the

<sup>9</sup> Around 25% of the workforce in the private sector earned the legal minimum wage in 2021; at the beginning of the COVID-19 pandemic this share was close to 30%.



mid-1990s, when the Italian management of the group and the three major trade unions in the sector (the Italian Federation of Metalworkers (FIOM-CGIL), the Italian Federation of Metal Mechanics (FIM-CISL) and the Italian Union of Metalworkers (UILM-UIL)) signed a consolidated text on participation. This was a very dense text, covering information and consultation rights, joint committees (including one on the organisation of work) and a guarantee commission, chaired by an impartial academic expert. Direct participation is of primary importance in the Electrolux Manufacturing System (EMS). The ‘EMS way’ refers to the principles governing the group’s approach, and it includes a focus on ‘full employee involvement’ and ‘sharing objectives and their achievement at all levels’. The implementation of the EMS in each plant makes it possible to achieve the innovation plan, annually implemented through the business development plan, which sets out the general objectives for improvement and participatory actions aimed at improving various indicators on productivity, safety, quality, costs and people.

## Vulnerable groups in the labour market

Transformations in labour markets and companies are creating new groups of vulnerable workers. The extension of outsourcing practices has contributed to an increasing reliance on subcontracted companies and workers. These include self-employed workers, who enjoy less protection than employees. The collective agreement signed in **Sweden** in August 2021 by the trade union Säljarnas and Frilans Finans (Sweden’s largest umbrella company for self-employed workers)

was aimed precisely at providing protection to solo self-employed people working for Frilans Finans. The agreement came about after Frilans Finans initiated contact with several trade unions in Sweden with a view to signing a collective agreement covering this group of workers. The agreement clearly states that those covered by it are employed on a fixed-term basis by Frilans Finans, which is responsible for the working environment, working time and any other aspects a traditional employer would be responsible for. However, it is still unclear whether this has any implications from the point of view of the Swedish authorities in terms of how they see the status of solo self-employed people working for Frilans Finans. The collective agreement is similar to other, more traditional, collective agreements in the sense that it regulates the minimum wage (SEK 125 (around €12.50) per hour (wages for those under 20 years of age can be lower)), working time, holidays, sickness allowance, pensions and insurance.

The collective agreement in the cleaning and multiservice sector in **Italy** is one of the first to include enhanced guarantees for another group of vulnerable workers, in this case women who have experienced harassment or violence in the workplace. The agreement reflects the growing attention that the social partners pay to women’s issues and full gender equality, expanding on and updating provisions contained in the National Strategic Plan to Combat Male Violence against Women 2021–2023. The clauses in the collective agreement extend the duration of leave in case of harassment or violence, specify the wage to be paid while the employee is on leave (up to 70% of their full wage) and provide for the possibility to be transferred to another place of work.

# 3 Innovation in collective bargaining: An unfinished business

## Common patterns

The analysis of collective agreements reveals a wide spectrum of emerging practices and provisions. In Chapters 1 and 2, these developments have been discussed in terms of the main factors that drive them. The objective of this chapter is to outline common trends and patterns across them.

A first finding is the limited number of totally new practices and provisions or significant innovations. The cases analysed in this report demonstrate that innovations in collective bargaining are predominantly incremental, with existing processes or topics updated or reformulated in order to adjust to changing conditions or a new context. Even in the case of technological change, most of the agreements have simply revised or better specified established practices and content. Just as the very notion of innovation is always relative to the context in which it is analysed, the radical or incremental character of innovation is also context specific. In some of the Member States and sectors analysed, remote work was already regulated in collective agreements. However, the COVID-19 crisis led the social partners to refine the existing frameworks to ensure that the increase in remote work did not have a detrimental effect on workers' well-being; to this end, new elements were added, such as the right to disconnect. By contrast, in other Member States and sectors, remote work had never been regulated in previous collective agreements, and the inclusion of provisions addressing it thus constituted a significant innovation.

Second, exogenous factors seem to play an important role in giving rise to new provisions or prompting the adaptation of old ones in collective agreements. A clear example is state regulations: in many of the Member States analysed, the social partners have tended to include new elements in collective agreements only once the government has passed legislation on the issue in question. The regulation of telework and the right to disconnect are the best examples of this. Statutory regulations remain important as a driver of the introduction of new topics in collective agreements, especially in those Member States with either strong regulation of employment relations (Spain) or weak industrial relations institutions (Slovakia). But, even in countries with strong and active collective bargaining, regulatory developments remain important in helping

actors to frame negotiations and in encouraging them to include new content in collective agreements, as the case of the Generation Pact in the Netherlands shows.

## Conditions for innovation in collective bargaining

The diversity of innovative practices and new provisions reviewed in this report highlights the existence of very different contexts and conditions leading to the adaptation of processes and collective agreements. Notwithstanding this, there are several favourable conditions that can be identified. These never operate in isolation: in all cases, combinations of two or more favourable conditions are observed. Moreover, the conditions relate to different aspects of the industrial relations system. Some relate to the institutional context for collective bargaining, some to the organisational characteristics and capabilities of the actors involved, and some to the specific conditions of the sector or company in which the collective agreement is signed.

Good conditions in a sector or company, such as strong institutions, the social partners having sufficient technical capacity, the skills of the actors in negotiations and a previous track record of cooperation, are favourable circumstances encountered in the cases reported. So too are shared perceptions of the challenges posed by structural changes and other drivers in the sector. Of all these factors, a previous record of cooperation reflected in the ability to conclude collective agreements plays a particularly important role. In line with the incremental character of most of the innovations analysed, new provisions in collective agreements very often arise from problems relating to the operation of clauses included previously that have either delivered poor results or are no longer appropriate in a new context and require reformulation.

The role of shared perceptions among the social partners of the challenges posed by the drivers of change in industrial relations is another important element. In the absence of such shared perceptions, structural change does not automatically result in innovation. Social dialogue and negotiations among the social partners are important for building these shared views about the impact of structural drivers and their sector-specific implications.

Sector-specific factors are key in prompting the social partners to address structural changes and in creating the conditions for the emergence of new practices and provisions. Thus, developments related to the green transition have emerged in those sectors directly affected by core aspects of the decarbonisation process, including energy and water supply. In these sectors, a greater awareness on the part of the social partners of the implications of the green transition have led them to include related provisions in collective agreements. Similarly, in sectors and activities with a predominantly female labour force, provisions have emerged aiming to prevent harassment and to enable workers to reconcile work and family life.

Although the focus of this study is emerging practices and provisions in multi-employer bargaining, the evidence collected shows that innovations do not necessarily happen at this level of the collective bargaining structure. The role of sector-level collective bargaining as a source of innovation is contested in some countries (such as Czechia and Italy), with national stakeholders arguing that real innovation is to be found mostly in company-level agreements. In some cases, instead of innovation being a top-down process that spreads from sector level to company level, the situation is the reverse.

## Statutory regulation as a catalyst

In the Introduction, it was noted that collective bargaining should in principle be more agile than statutory regulations in responding to changing economies and labour markets and in anticipating such change. The evidence reviewed in the study, however, does not fully bear out this expectation. On the one hand, it is true that collective agreements are incorporating new topics related to drivers of change in the labour markets. However, in some of the cases reported, this happened only after the introduction of statutory regulations or other government initiatives. The institutional context plays a key role in explaining some differences in this regard. In principle, it might be expected that collective bargaining would have a more proactive role in those Member States with pluralist industrial relations than in Member States where the state plays a strong role in regulating employment relations. The variety of practices that have emerged in Italy and Sweden lends support to this view. However, the case of Spain – which has very strong statutory regulation of employment relations, but where collective bargaining seems to adapt rapidly to drivers of change – does not fully align with this expectation. Other aspects, including the organisational characteristics of the social partners, may explain some other anomalies; for example, Member States where the social partners are weak organisationally or lack the necessary technical capacity would struggle to innovate even in a context of limited state intervention.



## 4 Conclusions

### Collective bargaining in the post-COVID-19 period

- Over the past three years, collective bargaining across the EU has been challenged in many ways by the COVID-19 pandemic. For example, social distancing requirements disrupted bargaining processes, and the changing situation made it necessary to adapt wage clauses and to tackle labour and skills shortages.
- The pandemic had an impact on many aspects of collective bargaining. In terms of processes, the main innovation was an increase in online bargaining. In the early stages of the pandemic, lockdowns and social distancing measures resulted in the postponement of most negotiations on collective agreements. The social partners preferred to wait for face-to-face bargaining to resume, especially in a context of high uncertainty and growing challenges in most sectors. Hybrid processes, combining online and face-to-face meetings, became widespread when social distancing measures began to ease.
- Although it is too early to assess the long-term impact of the COVID-19 crisis on collective bargaining, indicators and analyses point to its resilience in the face of the profound effects on the economy and employment. The mature response of the social partners was undoubtedly supported by active bipartite and tripartite social dialogue and by public policies that aimed to prevent further deterioration of the economy and social cohesion.
- Some innovations arising directly from the pandemic will have a permanent impact on collective bargaining and agreements, including new instruments to adjust working hours and wages in crisis periods. Others seem unlikely to endure, particularly online bargaining, which was adopted in the context of social distancing but never entirely replaced face-to-face bargaining and which does not seem to have become a popular method of conducting negotiations.
- The impact of national recovery and resilience plans (NRRPs) on some specific sectors remains to be analysed in due course; the huge investments in digitalisation and the green transition may influence developments or accelerate change.
- Overall, the available information and data on collective bargaining in the EU is fragmented and insufficient to provide meaningful insights into collective bargaining dynamics at sectoral level

particularly, but also at national level. Approaches, methodology, collection methods and data treatment are far from being homogeneous across the various sources. The periods that data and information are updated are dissimilar too. These shortcomings make it difficult to analyse developments and innovations in collective bargaining and collective agreements in the EU.

### Insufficient adaptation to times of profound transformation

- Innovation in collective bargaining requires further exploration, since conceptual approaches and definitions are mostly absent or underdeveloped in the literature and in practice. Theories can be grouped according to two stances: those that take an approach based on the responses of the actors involved in collective bargaining to endogenous or exogenous challenges and those that take a rather functionalist perspective emphasising the conditions facilitating or hindering the emergence of new topics or processes in collective agreements.
- The cases analysed show the key role of public support and social dialogue in helping collective bargaining to adapt to structural drivers of change and identify new measures and processes to meet the challenges that they pose.

The capacity of collective bargaining to proactively include new elements on negotiation agendas and in bargaining processes varies significantly across the Member States. In some, the cases analysed show that the social partners have been able to react rapidly to developments and include new elements anticipating change, while in others, the social partners have included new elements only after statutory regulation or state action has introduced them. A proactive or anticipatory stance can be linked to factors as diverse as the sector, the industrial relations regime and the actors' capabilities. The analysis thus shows that it cannot be taken for granted that collective bargaining will respond automatically, without prompting, to structural changes in the labour market.

- Three factors seem to increase the probability of a new practice or provision in collective bargaining emerging to respond to structural changes: some autonomy of the social partners in regulating industrial relations, the social partners having the necessary capabilities and skills, and a shared perception by unions and employer organisations of the challenges associated with these changes.

- Structural drivers of change in industrial relations play an important role in explaining new agendas and processes in collective agreements. Very often, these drivers interact with each other (for example, the issues of the ageing workforce and technological change combine to drive certain emerging practices).
- A similar interaction among drivers of change can be observed in the case of labour shortages: a lack of skills arising from workforce ageing in combination with the effects of the pandemic has led the social partners to explore new approaches.
- The green transition seems, however, to operate as a driver in isolation and, based on the evidence collected in the research, there does not seem to have been widespread adoption of clauses relating to this topic, except in those sectors or companies directly affected by decarbonisation.
- When it comes to the ways in which collective bargaining has responded to drivers of change, differences appear in relation to the scope of the regulations introduced. The case of telework is a good example. In some cases, collective agreements have tried to provide an overarching framework considering all the implications of this work arrangement, including health and safety issues, working time, control and privacy aspects, and even decarbonisation. In other cases, they have simply set out the conditions under which telework can take place, without considering the broader implications for the worker or the organisation.

## Short- and medium-term challenges

- At the beginning of the pandemic, trade unions and worker representatives were inclined to compromise. However, as the crisis continues in 2022 with rising inflation rates, it is expected that negotiations between employers and worker representatives will focus more on wages, with growing risks of collective labour disputes.
- A medium-term challenge for collective bargaining lies in determining how best it can contribute to recovery in the post-COVID-19 period and in reinforcing its capacity to adapt content and processes to new needs arising from structural trends in the economy.
- The effects of the pandemic still endure, and it is not yet known what the effects of the war in Ukraine on collective bargaining in the EU will be; the implications of rising prices for energy and other commodities will influence negotiations.

## Policy pointers

- To contribute to fair and inclusive implementation of the twin (green and digital) transition and other structural reforms that the EU is facing, public policies should be developed to strengthen collective bargaining capacity at all levels so that it can contribute to dealing with these challenges in the coming years and decades.
- Public policies and initiatives should aim to reinforce the capacity of collective bargaining to reach agreements based on a renewed negotiating agenda – featuring, for example, challenges stemming from labour shortages, education and skills gaps, the reorganisation of work, new and unaddressed health and safety risks, and other challenges identified at company and sector levels. Any such steps on the part of the state should, however, respect the autonomy of social partners.
- EU and well-targeted national public policies could play an active role in boosting collective bargaining to support the implementation of the NRRPs and the reforms envisaged in them, particularly in sectors under restructuring pressure. The interaction between collective bargaining and structural reforms in certain sectors could be analysed specifically when monitoring the implementation of the NRRPs.
- Promoting collective bargaining entails regular collection of detailed and reliable information on its processes and outcomes. The establishment of an EU observatory on collective bargaining aimed at monitoring developments across sectors and Member States could be explored. This tool would help in exploiting the full potential of collective bargaining to contribute to the implementation of EU macroeconomic and social policies while supporting the European Pillar of Social Rights Action Plan.
- Outcomes in some collective bargaining systems, particularly at sector level in the central and eastern European countries, are rather weak or non-existent, indicating that the capacity of collective bargaining to shape employment dynamics and patterns accompanying structural changes is severely limited. These gaps make a strong case for capacity building in these specific Member States and for the establishment of legal and other public frameworks and incentives to support sectoral collective bargaining.

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# Annexes

## Annex 1: Mapping emerging practices and provisions by drivers of change

Type	Subtype	Driver of change			
		Triggered by the COVID-19 pandemic	Structural changes	Endogenous factors (mostly sector specific)	Exogenous factors
Process	Emerging practices (entirely new aspects of collective bargaining processes)	Sweden: ICT-based collective bargaining (Church of Sweden) Spain: Assisted online bargaining (Covirán)	Spain: Integrated water cycle management Italy: Insieme (Together) Protocol (Eni Group)	Italy: Indirect and direct employee participation (Electrolux) Portugal: Union cooperation in industrial cleaning sector	
Content and outcomes	Emerging topics (entirely new content in collective agreements)	Sweden: Crisis agreement in the healthcare sector Slovenia: Telework in the graphic design sector	Netherlands: Green mobility agreements (Royal Dutch Touring Club) Spain: Artificial intelligence in the banking sector Czechia: Remote working in the banking sector Spain: E-commerce in large retail companies	Germany: Package to upgrade qualifications in the collective agreement for the chemical and pharmaceutical industry Netherlands: Attracting and retaining young employees in the motor vehicle manufacturing sector Sweden: Protection for self-employed workers (freelancers) Slovakia: Right to reskilling in the steel, metallurgy and mining industries Slovakia: Protection against sudden loss of job (Dell)	Netherlands: Generation Pact and early retirement scheme in the disability care sector
	Changing topics (existing content in collective agreements has been adapted)	Slovakia: Mass redundancies (US Steel Košice) Slovenia: Special burden benefits in the public utilities sector Germany: Mobile working in the metal and electrical industry 2021 Portugal: Remote working in the banking sector Portugal: Temporary emergency agreements (TAP Air Portugal)	Germany: Digitalisation in the federal government 2021 Germany: Mobile working in the metal and electrical industry 2018 Italy: Right to training and digital literacy in the metalworking sector Czechia: Lifelong learning policy related to digitalisation and automation	Italy: Combating harassment in the cleaning and multiservice sector Netherlands: Structural wage increase in the information, communications and office technologies industry Slovenia: New wage model for the paper industry	Sweden: Agreement on employment protection

**Note:** Based on the typology developed in the methodological section of the report.

**Source:** Authors

## Annex 2: Collective agreements selected for study

Collective agreement	Signatory parties	Sector	Number of companies covered	Number of employees covered	Period covered
<b>Czechia</b>					
High-level collective agreement for the banking and insurance sector	Union of Banks and Insurance Companies (SBP) Trade Union of Banking and Insurance Companies Employees (OS PPP)	Banking and insurance	15 (covering only signatory parties – not extended)	30,000	Signed in September 2021 Duration: 2022–2025
High-level collective agreement for the electrotechnics sector	Electrical and Electronic Association of the Czech Republic (EIA) Czech Metalworkers' Federation (OS KOVO)	Electronics	2 (covering only signatory parties – not extended)	3,200	2021–2022
Collective agreement for the chemical industry	Association of Chemical Industry of the Czech Republic (SCHP ČR) Trade Union ECHO	Chemicals	31	10,000	2022–2025
<b>Germany</b>					
Collective agreement on mobile working	Südwestmetall IG Metall	Metal and electrical industry	3,400 (adopted in all other regions of Germany)	1.9 million	Signed in February 2018 (retroactive to 1 January 2018) Duration: at least 27 months (may be terminated at the end of a calendar quarter with three months' notice at the earliest on 31 March 2020)
Collective agreement package for the chemical and pharmaceutical industry	German Federation of Chemical Employers' Associations (BAVC) Trade Union for Mining, Chemicals and Energy (IG BCE)	Chemical and pharmaceutical industry	1,900	580,000	Concluded on 22 November 2019 Duration: 29 months (to end March 2022)
Pilot agreement covering employees in North Rhine-Westphalia (NRW)	Metall NRW IG Metall	Metal and electrical industry	1,100 (in NRW)	450,000 (in NRW)	Signed in March 2021 (retroactive to January 2021) Duration: 21 months (to end September 2022)
Collective agreement on digitalisation in the federal government	Federal Ministry of the Interior, Construction and Homeland Affairs United Services Trade Union (ver.di) and German Civil Service Federation (dbb)	Public administration/public services	Not applicable	126,000	Signed in June 2021 (entry into force from 1 January 2022) Duration: at least 4 years
<b>Italy</b>					
National industry-wide metalworking collective agreement	Federmeccanica-Assital and Confindustria FIOM-CGIL, FIM-CISL, UILM-UIL	Metal industry	17,200	1.5 million	5 February 2021–30 June 2024
Eni Insieme (Together) Protocol	Eni Group Major energy sector unions: FILCTEM-CGIL, FEMCA-CISL, UILTEC-UIL	Oil and energy	1	21,000	3 December 2020–2 December 2023
Group-level collective agreement	Electrolux Group Italy FIOM-CGIL, FIM-CISL, UILM-UIL and the national coordinator of factory union representatives	Metal and household appliances	1	4,600	23 April 2021–31 December 2024



Collective agreement	Signatory parties	Sector	Number of companies covered	Number of employees covered	Period covered
<b>Italy</b>					
Cleaning and multi-service national industry agreement	ANIP (Confindustria), Confcooperative, Legacoop, AGCI, Unionservizi National secretaries of the sectoral federations FILCAMS-CGIL, FISASCAT-CISL and UIL Trasporti	Cleaning and multi-services	Approximately 8,500	Approximately 350,000	9 July 2021–31 December 2024
<b>Netherlands</b>					
Collective agreement for the disability care sector	VGN (sectoral organisation for institutions in the disability care sector) MEE NL (cooperative association of regional organisations dedicated to people with disabilities and their networks)	Disability care	–	17,000	1 April 2019–30 September 2021
Collective agreement for Forbo Flooring	Forbo Flooring B.V. FNV and Christian National Trade Union Federation (CNV) Vakmensen	Flooring	–	500	1 January 2021–31 December 2021
Collective agreement for the tyre and wheel industry	Association VACO (trade association for the tyre and wheel industry) FNV, De Unie and CNV Vakmensen	Tyre and wheel industry	–	–	1 September 2020–1 January 2023
Collective agreement for the information, communication and office technologies industry	Nldigital Employers' Association FNV, CNV Vakmensen and De Unie	Information, communications and office technologies	–	–	1 January 2021–31 December 2021
Collective agreement for the furniture industry and furnishing companies	CBM (trade association for the interior construction and furniture industry) CNV and FNV	Furniture industry and furnishing companies	–	–	1 January 2020–31 December 2021
Collective agreement for architecture firms	Royal Institute of Dutch Architects (BNA) FNV, CNV and De Unie	Architecture	–	–	1 March 2021–28 February 2023
Collective agreement of ANWB	ANWB FNV and CNV Vakmensen	Travel	1	3,500	1 April 2020–1 April 2022
Collective agreement of the cooperative pension administration organisation PGGM N.V.	PGGM N.V. CNV Vakmensen, De Unie and FNV	Administration	1	1,500	1 January 2021–31 December 2021
Crisis agreement for motor vehicle and two-wheeler companies, 2020–2021	Bovag (employer organisation for motor vehicle and two-wheeler companies) FNV, CNV Vakmensen, De Unie	Motor vehicle and two-wheeler companies	–	–	Signed on 1 November 2020 Duration: 2020–2021

Collective agreement	Signatory parties	Sector	Number of companies covered	Number of employees covered	Period covered
<b>Poland</b>					
Social Agreement on the Transformation of the Hard Coal Mining Sector and Selected Transformation Processes of the Silesian Province	Government, trade unions, mainly state-owned mining companies and local authorities	Mining of hard coal (although it will affect many companies working for the mining industry in other sectors)	4 consortia, 18 mines	55,000 (indirect coverage of about 150,000 in companies associated with mining)	Signed on 28 May 2021; to be implemented until 2049
<b>Portugal</b>					
Multi-employer agreement in the industrial cleaning industry	APFS STAD and Fetese	Industrial cleaning	50	71,404	In force since 1 January 2020; renewed in December 2021
Collective agreement covering various banks (Mais/SBC)	Various banks Mais Sindicato and SBC	Banking	20	7,159	In force since 8 March 2021
Collective agreement covering various banks (SBN)	Various banks Northern Bank Workers' Union (SBN)	Banking	18	1,180	In force since 8 March 2021
Two temporary emergency agreements at company level	TAP Air Portugal Seven ground staff unions: Sitava, Sintac, SQAC, STHA, STTAMP, STAMA and SIMA	Civil aviation	1	Around 1,850 (covered by the two agreements)	In force since 22 February 2021 Duration: three years
<b>Slovakia</b>					
US Steel Košice collective agreement	US Steel Košice OZ Kovo US Steel Košice (company-level trade union)	Steel, metallurgy and mining industries	1	11,000	27 September 2021–31 March 2024
Multi-employer agreement in the electrotechnical industry	Federation of Electrotechnical Industry of the Slovak Republic OZ Kovo (metalworkers' union)	Electrotechnical industry	6 (extended to another 34)	2,073 (extended to cover 7,578)	2018–2022
Multi-employer agreement in the steel industry	Federation of Steel, Extraction Industries and Geology of the Slovak Republic OZ Kovo	Steel, metallurgy and mining industries	10 (extended to cover 261)	7,110 (extended to cover 31,320)	1 July 2021–31 March 2023
Dell collective agreement (not yet signed but subject to ongoing collective bargaining)	Dell Technologies Unions Slovakia	ICT	1	2,000–2,999	Not yet signed
<b>Slovenia</b>					
Collective agreement for the paper industry	Chamber of Commerce and Industry of Slovenia (CCIS) and Association of Employers of Slovenia (ZDS) Pergam Trade Union Confederation, paper sector trade union	Paper industry	120	4,250	Entered into force on 1 January 2021; indefinite duration



Collective agreement	Signatory parties	Sector	Number of companies covered	Number of employees covered	Period covered
<b>Slovenia</b>					
Collective agreement for the graphic design sector	CCIS Pergam Trade Union Confederation	Graphic design	580	3,209	Entered into force on 1 January 2021; indefinite duration
Collective agreement for the newspaper, publishing and bookselling sector	CCIS Pergam Trade Union Confederation	Newspapers, publishing and bookselling	450	2,359	Entered into force on 1 January 2021; indefinite duration
Collective agreement for public utility services	CCIS and ZDS Trade Union of Public Utilities, Security and Real Estate Workers (SKVNS) and Neodvisnost Trade Union Confederation	Public utilities	76	10,000	Concluded in June 2021 Duration: five years
<b>Spain</b>					
Collective agreement in the banking sector	Spanish Bank Association (AEB) CC.OO, UGT and the banking federation FINE	Banking	73	91,539	Signed in March 2021 Duration: five years (2019–2023)
Collective agreement of Covirán	Covirán management Trade unions represented in the works council (CC.OO, UGT and GTI)	Supermarkets	1	1,200	Signed in May 2021; in force until 31 December 2023
Collective agreement covering large retail companies	National Association of Large Retail Companies (Anged) Confederation of Independent Trade Unions (Fetico), Spanish Federation of Trade Union Associations (Fasga), CC.OO and UGT	Retail	20	230,000	Signed in April 2021; in force until 31 December 2022
Sectoral collective agreement on integrated water cycle management	AGA (Spanish Association of Urban Water Services Management Companies) Federation of Industry, Construction and Agriculture (FICA-UGT) and the Federation of Citizen Services of CC.OO (FSC-CCOO)	Water supply	800	9,000	Published in the Official Gazette on June 2020; in force until 31 December 2022
<b>Sweden</b>					
Collective agreement covering self-employed workers	Frilans Finans (umbrella company for self-employed workers) Trade union Sälljarnas	Temporary employment agency activities (the self-employed workers covered by the agreement work in a wide range of sectors)	1	Approximately 25,000 (solo self-employed people working for Frilans Finans)	Entered into force on 1 March 2022 Duration: one year (automatically renewed once a year unless the signatories decide otherwise)
Agreement in principle (ongoing negotiation)	-	Cross-sectoral (national-level agreement)	Will depend on the number of trade unions and employer organisations choosing to implement the agreement	Legislative changes will cover all companies and all employees	Negotiations started in 2012; expected to enter into force in 2023

Collective agreement	Signatory parties	Sector	Number of companies covered	Number of employees covered	Period covered
<b>Sweden</b>					
<b>Collective agreements covering the Church of Sweden and its employees</b>	Church of Sweden's employer organisation Various trade unions/negotiating organisations representing priests and bishops, maintenance employees and administrative employees, and the Public Employees' Negotiation Council (OFR) (representing musicians working for the Swedish Church)	Swedish Church	1	Approximately 20,000	In force between November 2020 and April 2022
<b>Crisis agreement (Krislägesavtal)</b>	Association of Local Authorities and Regions (SKR) and Sobona Kommunal, OFR, AkademikerAlliansen and Brandmännens Riksförbund (representing firefighters)	Cross-sectoral (covers all municipalities, regions and companies owned by municipalities)	21 regions and 290 municipalities	Approximately 1.2 million	First version concluded in 2019; updated version entered into force in summer 2021

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This report analyses recent developments and emerging practices in collective bargaining processes and outcomes, mainly in the private sector. The report covers collective bargaining systems in 10 EU Member States and is based on cases identified through interviews with key stakeholders and negotiating parties at national level. It analyses the effects of the COVID-19 pandemic and the subsequent economic and social crisis on collective bargaining dynamics and collective agreements. It also investigates practices and innovations that have emerged in response to structural drivers such as technological change, decarbonisation and climate-neutrality policies, and workforce ageing. It assesses the capacity of collective bargaining systems to adapt to structural changes in work, production and the labour market as well as medium-term trends.

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