

# THE APPLICATION OF COLLECTIVE AGREEMENTS



International  
Labour  
Office

*In collective bargaining, one or more trade unions and one or more employers or employers' organizations negotiate with the intention of reaching agreement on two broad subjects: terms and conditions of employment; and the rules that govern how the two sides will jointly address workplace issues and resolve any disputes that arise between them.*

## Applying collective bargaining agreements

Ideally, workers and managers will ensure that collective bargaining agreements (CBAs) are applied. Managers will make sure that workers are paid the agreed rates and that working conditions are as specified in the latest agreement. Trade union officers will communicate with workers, explaining what has been agreed and discussing how to approach the implementation of any changes. Managers and trade union representatives together will monitor the application of the agreement and work together within agreed procedures to resolve any problems that arise with putting it into practice.

In many circumstances, however, the application of agreements is not so straightforward. Simply because the employers and trade union representatives who participate in bargaining have the capacity to agree a CBA does not mean that workers and managers in every workplace covered by the agreement will have the knowledge and experience needed properly to understand and implement all of its provisions.

### Communication and training on a collective bargaining agreement for workers, employers and trade union representatives in Jordan's textile industry

A ground-breaking collective bargaining agreement was signed between two employers' associations and the garment sector trade union in Jordan in 2013. The agreement ensures that union representatives have the right to enter workplaces and communicate with workers about their rights under the agreement. ILO experts have also helped to design training programmes for unions and employers on how to apply and administer the agreement and how to resolve disputes.

[http://betterwork.ch/global/wp-content/uploads/ILO-Better-Work\\_Jordan-Case-Study\\_LR\\_Web.pdf](http://betterwork.ch/global/wp-content/uploads/ILO-Better-Work_Jordan-Case-Study_LR_Web.pdf)

## Pro-active approaches to application

The effective application of CBAs at the workplace level is a question of pro-active communication, consultation and capacity-building. A CBA cannot be applied effectively if workers and managers are unaware of the rights and duties it confers. The widest possible communication of information about the content of CBAs is therefore an essential element in their application. Consultation mechanisms involving workers and managers allow the discussion of developments affecting application of a collective bargaining agreement at a workplace. Groups

in the form of works councils or other types of joint committee can bring compliance concerns to the attention of an employer. Compliance may also be improved by training and other capacity-building exercises. The social partners frequently provide training to their members at enterprise level and the secretariats of multi-employer collective bargaining councils often have a remit to provide training for managers and trade union representatives, whether separately or jointly.

## Monitoring compliance

Although workers and managers in each workplace are and should be the main actors in monitoring compliance, in many industrial relations systems compliance with collective bargaining agreements is also reviewed by third parties, either at the request of workers or employers or as a matter of routine. Monitoring or inspection may be the role of government labour inspectors or of inspectors engaged by the secretariats of multi-employer bargaining councils. The law or collective bargaining agreements may also include provisions allowing union officers access to workplaces for the purposes of checking compliance with agreements.

## How is compliance assured?

Even where managers and workers both make good faith efforts to apply CBAs in a way agreeable to all concerned, there may still be disputes about exactly what the application of certain clauses should mean in practice. In these cases, the question arises as to how the parties can ensure compliance with the agreement and resolve disputes.

The way in which CBAs are given legal force varies considerably across different industrial relations systems. As with other aspects of industrial relations, what counts is ensuring that workers and employers have access to an effective procedure for resolving any disputes that occur. General public courts, specialized courts, or private arbitration bodies may be called upon to give final determinations on compliance.

### Enforcement of Collective Agreements in Belgium

In Belgium, collective bargaining agreements become legally binding on workers and employers once registered. They are enforced, if necessary, by the national labour inspectorate, the General Directorate for the Supervision of Social Legislation. The criteria for registration do not concern the content of agreements but simply their procedural aspects. For example, the agreement must be signed by properly authorized representatives of workers' and employers' organizations that meet certain criteria for representativity which include being organized on a national basis and (for workers' organizations) having more than 50,000 members.

De Vos, M. (2003) "Belgium" in *The Actors of Collective Bargaining: A World Report*, Bulletin of Comparative Labour Relations Vol 51.

### Union monitoring of compliance with collective agreements in New Zealand

The New Zealand Employment Relations Act 2000 includes a provision stating that "A representative of a union is entitled ... to enter a workplace to monitor compliance with the operation of a collective agreement"

Article 20, paragraph 2(c)

Perhaps the most common approach to ensuring compliance involves giving CBAs a status similar to that of administrative law. As such, their application is monitored by state authorities in addition to the parties to agreements. It is the state that takes action to enforce the CBA. In systems where this is the case, CBAs usually have to be registered with state authorities. The authorities check certain procedural aspects and ensure that no provisions contradict statutory standards.

In other jurisdictions, CBAs are not legally enforceable in themselves, but may take effect via individual employment contracts. In this type of system, the union and employer parties that negotiated and signed the CBA cannot take direct legal action against each other. However, individual workers may be able to take action because the law says that some or all of the terms of the CBA become part of each separate employment contract. Although acting as individuals, workers taking action in these systems will frequently be represented in the relevant court or tribunal by their trade unions.

Another type of system treats the CBA itself as a legal contract between the employer and union parties. Unions and employers or employers' organizations can seek a ruling from an appropriate court or tribunal if they believe that the other party has not complied with some aspect of the CBA.

### Inclusive Labour Markets, Labour Relations and Working Conditions Branch (INWORK)

International Labour Office  
4, route des Morillons  
CH-1211 Geneva 22, Switzerland

Tel: + 41 22 799 67 54  
Fax: + 41 22 799 84 51

inwork@ilo.org  
www.ilo.org/collectivebargaining