



► Extension of collective agreements: Evidence from the updated IRLex database

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ILO's Legal Database on Industrial Relations (IRLex)

- The [ILO's Legal Database on Industrial Relations](#) (IRLex) provides country profiles containing legal texts and summaries on industrial relations issues in 70 ILO Member States.
- It covers thematic areas such as collective bargaining, dispute settlement or workplace cooperation in regions with different legal systems. IRLex is a tool for policymakers and advisers, government officials, representatives of employers' and workers' organizations, and legal and industrial relations specialists around the world. The database was updated and expanded in 2020/2021.
- The IRLex database is concerned solely with the technical content of national legislation. It does not hold any information on how the law is applied in practice, neither does it include or imply any evaluation of the conformity of that legislation with international labour standards.

► What does “extension” of a collective agreement mean?

If a collective agreement is “extended” this means that the labour administration, another public authority or a court declares applicable some or all of the provisions of an agreement to all enterprises in a designated sector or territory that fall outside the scope of application of the original agreement. The extended agreement is then binding on all employers in that particular industry or territory, regardless of whether or not they belong to the employers' organization that signed the original agreement. The decision to extend an agreement is an act of public policy that depends on the decision of a public authority and is often subject to several conditions. These can include that the parties are sufficiently representative, that the non-objection of non-signatory parties has been obtained or that extension is made on the basis of public interest. The extension of collective agreements ensures common working conditions across the whole industry and not only among the companies represented by the signatory parties, thereby preventing competition on the basis of different working conditions.

What are the international labour standards around the extension of collective agreements?

According to Article 2 of the [Collective Bargaining Convention, 1981 \(No. 154\)](#):

“the term collective bargaining extends to all negotiations which take place between an employer, a group of employers or one or more employers' organisations, on the one hand, and one or more workers' organisations, on the other, for--

(a) determining working conditions and terms of employment; and/or

(b) regulating relations between employers and workers; and/or

(c) regulating relations between employers or their organisations and a workers' organisation or workers' organisations.”¹

¹ The Collective Agreements Recommendation, 1951 (No. 91) provides a definition of collective agreements whereby “all agreements in writing regarding working conditions and terms of employment concluded between an employer, a group of employers or one or more employers' organisations, on the one hand, and one or more representative workers' organisations, or, in the absence of such organisations, the representatives of the workers duly elected and authorized by them in accordance with national laws and regulations, on the other” (Para. 2(1)). According to Recommendation No. 91, collective bargaining can occur with duly elected non-union representatives only in the absence of workers' organizations.

For collective bargaining to take place, therefore, workers need to be represented by a workers' organization. For industry-level bargaining, the employers also need to be represented by an organization.

The [Collective Agreements Recommendation, 1951 \(No. 91\)](#) states that where appropriate and having regard to national practice, legal measures should be taken to extend the application of all or certain provisions of a collective agreement to all the employers and workers included within the industrial and territorial scope of the agreement (Para. 5).

Recommendation No. 91 sets out some guiding principles on conditions that should be provided for in legislation and met in order to allow the extension of a collective agreement, as outlined and used in this IRLex factsheet².

Why do industrial relations systems foresee the extension of collective agreements?

There are a number of policy justifications for extension. First, it aims to promote a level playing field for all enterprises by supporting sectoral bargaining institutions that determine the same (minimum) employment conditions for employers and workers irrespective of whether or not they are members of the parties to the agreement.³ By establishing a floor or a common standard for a specific industry or occupation, extension can contribute to inclusive

labour protection⁴ and shore up the various public goods provided by sectoral bargaining institutions, such as training funds and pension funds.⁵ In this vein, extension is also considered to stabilize sectoral collective bargaining by eliminating incentives for firms to leave their associations. Another justification provided for extension is that it may contribute to the goal of reducing inequality by making collective bargaining more inclusive. Extension increases the coverage of collective agreements and recent research evidence suggests that high coverage is associated with lower wage inequality.⁶ This can reduce the incidence of poor pay and working conditions, particularly among groups of workers that face specific challenges to their engagement in collective bargaining. At the same time, the possible negative effects of extension should be avoided. These may include disincentives to join employers' and workers' organizations and imposed downward wage rigidity, which may have adverse effects on employment, particularly during economic crises.⁷

In several countries, the law itself provides a policy justification for extending collective agreements. For example, in Spain, according to article 92 of the Workers' Statute, the Ministry of Labour and Social Affairs – or the relevant body of regional governments – may extend the provisions of a collective agreement to all companies in a specific sector or subsector when there are no legitimate parties entitled to negotiate. The decision should consider the negative effects that the absence of a collective agreement would have on workers and enterprises.

► What are the legal “mechanics” of extension? Evidence from the updated IRLex database

As mentioned above, Recommendation No. 91 sets out guidelines on conditions and policy recommendations for Member States that wish to introduce legal provisions for extension. National regulations may make the extension subject, among other conditions, to (i) the minimum coverage of an existing agreement; (ii) the request being made by one or more parties to the agreement; and (iii) providing the employers and workers to whom the agreement would be made applicable with an

opportunity to submit their observations. This structure has been followed to present the information contained in IRLex and to compare the legal mechanisms used to extend collective agreements in different industrial relations systems.

There are general considerations that need to be taken into account when discussing the extension of collective agreements. First, for a collective agreement to be extended a valid collective agreement must already

2 This IRLex Factsheet was prepared by Felix Hadwiger (ILO's Collective Bargaining & Labour Relations group within the Inclusive Labour Markets, Labour Relations and Working Conditions Branch) and Marleen Rueda Catry. Comments were gratefully received from ILO's Bureau for Employers' Activities and ILO's Bureau for Workers' Activities.

3 Ludwig Hamburger, "The Extension of Collective Agreements to Cover Entire Trades and Industries", *International Labour Review* 40, No. 2 (1939): 153–194, p. 155.

4 Susan Hayter and Jelle Visser, "[Making Collective Bargaining More Inclusive: The Role of Extension](#)", *International Labour Review* 160, No. 2 (2021): 169–195.

5 Susan Hayter and Jelle Visser, eds., *Collective Agreements: Extending Labour Protection* (ILO, 2018), p. 3.

6 Gerhard Bosch, "Shrinking Collective Bargaining Coverage, Increasing Income Inequality: A Comparison of Five EU Countries", *International Labour Review* 154, No. 1(2015): 57–66; Florence Jaumotte and Carolina Osorio Buitron, *Inequality and Labor Market Institutions* (IMF, 2015).

7 See for an overview on critical studies on the effects of the extension of collective agreements: Susan Hayer and Jelle Visser, eds., *Collective Agreements: Extending Labour Protection* (ILO, 2018), p. 3.

exist. Second, extension is the outcome of a decision taken by the public authorities responsible for labour matters,⁸ most often at the request of a workers' and/or an employers' organization. Third, there are several

countries in which the extension of collective agreements is provided for by law but not or only rarely used in practice such as Lithuania, Poland and Türkiye.⁹

What conditions must be met for the extension of a collective agreement?

Among other conditions, Recommendation No. 91 states that national laws and regulations may make the extension of collective agreements subject to a "sufficiently representative" number of employers and workers covered by the existing agreement (Para. 5(2) (a)). The Recommendation sets no specific threshold for what should be considered "sufficiently representative", leaving this decision to the opinion of a competent

authority. Representativity criteria should be such as to ensure that extension is only used to give the force of law to terms and conditions that are the outcome of negotiations between parties that have an appropriate level of democratic legitimacy and they may vary significantly so to reflect the specificities of each system of industrial relations.

► **Table 1: Conditions for extension**

General conditions/ criteria for extension	Specific requirements	Country examples ¹⁰	Legal texts from IRLex
Thresholds for determining representativity	Majority or specific percentage of workers and employers already covered by the agreement	Albania , Colombia , Eswatini , Finland , France , Guatemala , Hungary , Japan , Latvia , Morocco , Paraguay , Republic of Korea , Rwanda , Serbia , Slovakia , South Africa , Viet Nam	<p>"The collective agreements applicable to at least two thirds (2/3) of the number of employees or employers representing the category of profession can be subject to extension" (unofficial English translation). Rwanda, Art. 95 Law No. 66/2018</p> <p>Pursuant to the order of the minister responsible for labour issues, the effects of the collective agreement may be extended to all the employers of the branch when the employers bound by the collective agreement employ at least half of the employees in the branch (unofficial summary and English translation). Albania, LRL, Art. 162 (4) LC</p> <p>"A representative higher-level collective agreement is signed between (a) an employers' association from the given sector or part of the sector, and (b) by a higher-level trade union body: (i) whose associated trade union organizations operate in the firms of at least 30 per cent of the employers who are signatories of the higher-level collective agreement ..." (unofficial English translation). Slovakia, Collective Bargaining Act</p>

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8 Exceptions include [Brazil](#), where the decision is taken by the courts, and [Norway](#), where the decision is taken by an independent body known as the Tariff Board.

9 Susan Hayter and Jelle Visser, "Making Collective Bargaining More Inclusive".

10 The lists of referenced IRLex country profiles and national legal provisions are exemplary and non-exhaustive; country examples cited were chosen purely to illustrate and do not include or imply any evaluation of their conformity with international labour standards.

Further criteria	Collective agreement is concluded between representative parties at the industry or branch level	Belgium, Bulgaria	<p>“When the collective agreement at the industry or branch level has been concluded between all representative organizations of the workers and employees and of the employers in the industry or the branch, the Minister of Labour and Social Policy may, upon their joint request, extend the application of the agreement or of individual clauses thereof to all enterprises of that industry or branch” (unofficial English translation). Bulgaria, Art. 51b (4) Labour Code</p> <p>The collective agreement must have been signed by representative members of a joint sectoral committee. At national level, the signatory trade union must be a member of a trade union confederation with at least 50,000 members (unofficial summary and English translation). Belgium, Art. 28 Law of 5 December 1968</p>
	Public interest considerations/ economic and social considerations of the effects of extension	Australia, Bosnia and Herzegovina, Côte d'Ivoire, Honduras, Ireland, Norway, Poland, Serbia, South Africa	<p>The Minister of Labour must deem that an extension is in the interest of the Republic and is justified to achieve the goals of economic and social policy in the Republic (unofficial summary and English translation). Bosnia and Herzegovina, Labour Code, Art. 159</p> <p>“... This extension shall only be possible if the economic and social situation of the companies likely to be concerned by this measure is similar to that of the companies already bound by the agreement. If, having regard in particular to their turnover or their number of employees, this condition is met by only some of the enterprises, the extension must be limited to that category only” (unofficial English translation). Côte d'Ivoire, : Art. 73.1 (2), (3) LC</p>
	Minimum content of the collective agreement	Tunisia, Togo	<p>“Collective agreements that are liable to be extended must include provisions concerning:</p> <ol style="list-style-type: none"> 1. the free exercise of trade union rights; 2. the definition of professional categories and the salaries applicable to each category; 3. the arrangements for working at night and on non-working days, as well as the rates of pay for overtime; 4. the duration of the trial period and the notice period; 5. the workers’ representatives; 6. the procedure for reviewing, amending and terminating the collective agreement, in whole or in part; 7. the procedures for applying the principle of ‘equal pay for work of equal value’ without discrimination of any kind, particularly based on sex or age; and 8. paid holidays” (unofficial English translation). Togo, Art. 103 LC
	Minimum duration of previous application	Jordan	<p>The collective agreement must have been in force for at least two months prior to extension (unofficial summary and English translation). Jordan, Art. 43 (C) JLL</p>

The information in IRLex shows that there is a broad range of definitions of “sufficient representativity” and that the degree of discretion available to the decision-making body when it comes to interpreting this requirement varies considerably among industrial relations systems. Representativity is most often defined in terms of a numerical threshold. This may refer either to the percentage of workers already covered by the agreement to be extended, the percentage of workplace representatives or the percentage of employers. It may refer to workers and employers who are parties to the existing (unextended) agreement or to those workers and employers who would be covered if extension were granted. It may also refer to the fact that the collective agreement was concluded between representative parties. More rarely, representativity may be left as a judgement to be made on the balance of evidence.

In a number of cases, conditions other than representativity must also be met before extension can be granted. These may include public interest and economic considerations or aspects of the collective agreements to be extended.

Who can request the extension of a collective agreement?

Recommendation No. 91 states as another condition for the extension of a collective agreement that “as a general rule”, the request for its extension is made by one or more organizations of workers or employers who are parties to the agreement (Para. 5(2)(b)). This principle derives essentially from the recognition that decisions about the terms and conditions and the scope of application of collective agreements should be made by representatives of workers and employers.

In several of the countries listed in IRLex, the decision to extend – or not to extend – a collective agreement can only be taken by the competent public authority in response to a request from the social partners. In other countries, the labour ministry or other public authorities have the power to decide on the extension of a collective agreement on their own initiative, either in addition to the social partners’ right to request extension or as an exclusive prerogative. Where the social partners have the right to request extension, the law may stipulate that the request must come from either the workers’ or the employers’ side, or a joint request may be required. In addition, in a few countries other bodies such as tripartite committees may request the extension of a collective agreement.

► Table 2: Parties that can request the extension of a collective agreement

General condition for extension	Specific procedural requirements	Country examples ¹¹	Legal texts from IRLex
The competent public authority takes a decision on the extension of a collective agreement after a request by either the workers’ or employers’ side or a joint request	Albania , Argentina , Burkina Faso , Brazil , Cambodia , France , Guatemala , Honduras , Japan , Namibia , Paraguay , Republic of Korea , Slovakia	The request for the extension of a collective agreement is initiated by one of the social partners but objective criteria should be met, i.e., representativity criteria (unofficial summary and English translation). Slovakia, § 7 (1) and (3) Collective Bargaining Act “At the request of the workers’ or employers’ organizations that represent members within a particular sector, the ministry responsible for labour, after consultation with the Labour Advisory Committee, may extend all or some of the provisions of a collective agreement to all employers and all workers operating in the occupational area and within the scope of the agreement.” (unofficial English translation). Cambodia, Art. 99 LL
	... exclusively after a joint request by the workers’ and the employers’ sides	Bulgaria , Eswatini , Poland , South Africa	“Upon the joint request of an employers’ association and multi-enterprise trade union that concluded a multi-enterprise agreement, the minister for labour matters may – if necessary for important social interests – issue an executive regulation extending the scope of application of a multi-enterprise agreement ...” (unofficial English translation). Poland, Art. 241-18 (1) LC

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¹¹ The lists of referenced IRLex country profiles and national legal provisions are exemplary and non-exhaustive; country examples cited were chosen purely to illustrate and do not include or imply any evaluation of their conformity with international labour standards.

... on its own initiative	Brazil , Bosnia and Herzegovina , Burkina Faso , Honduras , Norway , Paraguay , Republic of Korea , Senegal , Togo	<p>“At the request of one of the most representative trade union organizations or on the initiative of the Minister for Labour, the provisions of collective labour agreements that meet the conditions set out in this section may be made binding” (unofficial English translation). Burkina Faso, Art. 120 (1) LC</p> <p>“When two thirds or more of the workers of the same kind of job employed in an area are subject to one collective agreement, the administrative agencies may, with resolution of the Labour Relations Commission, at the request of either of the parties to the collective agreement or ex officio, make a decision that the said collective agreement shall apply to other workers of the same kind of job and their employers engaged in the same area” (unofficial English translation). Republic of Korea, Art. 36 TULRAA</p>
... after a request by the ministry of labour or another public authority	Eswatini , Hungary , Jordan , Serbia	<p>“The Tripartite Committee may, after concluding a suitable assessment, recommend to the Minister of Labour to expand the scope of any collective work agreement that has been in force for not less than two months, to become applicable, with all its terms, to all employers and workers in a specific sector or to a certain category thereof in all regions or in a specific region” (unofficial English translation). Jordan, Art. 43 (C) JLL</p>

What are the consultation requirements?

Recommendation No. 91 states that a third condition for the extension of a collective agreement may be that the workers and employers to whom the agreement would be made applicable by its extension should be given an opportunity to “submit their observations” prior to the extension of the agreement (Para. 5(2) (c)). This procedural safeguard should ensure that due

consideration is given in the decision-making process to the opinions of outsiders and non-parties to the agreements.

IRLex shows that in many systems, the law does indeed include a variety of requirements for consultation. In most cases, this includes consultation with the parties potentially affected by the extended agreement, but it may also include tripartite advisory bodies, collective bargaining councils, state ministries or additional interested parties.

► **Table 3: Consultation requirements**

General condition for extension	Specific procedural requirements	Country examples ¹²	Legal texts from IRLex
Before a decision on extension is taken consultation should be held with...	... only workers and employers who would be covered by a collective agreement	Albania , Bosnia & Herzegovina , France , Guatemala , Paraguay	<p>“... after the study and reasoned resolution of the Labour Administration Authority, [a collective agreement] will be elevated to the category of Contract Law after giving an opportunity to the employers and workers to whom it will be applied to previously present their observations” (unofficial English translation). Paraguay, Art. 344 Labour Code 1993</p> <p>Before granting an extension, the ministry must seek the opinion of the appropriate employers or employers' union or employers' association to which the collective agreement extends (unofficial summary and English translation). Bosnia and Herzegovina, Art. 159 Labour Code 2000</p>

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¹² The lists of referenced IRLex country profiles and national legal provisions are exemplary and non-exhaustive; country examples cited were chosen purely to illustrate and do not include or imply any evaluation of their conformity with international labour standards.

... in addition, tripartite advisory bodies or a collective bargaining council, or ministry

[Albania](#), [Cambodia](#), [Hungary](#), [Morocco](#), [Togo](#)

“... after consultations with professional employers’ organizations, the most representative employees’ trade unions and the Collective Bargaining Council, consultations should be held with all enterprises and companies with employees engaged in the same occupation, either in a given area or throughout the entire Kingdom” (unofficial English translation). Morocco, Art. 133 LC

... in addition, further parties and interested persons

[Burkina Faso](#), [Brazil](#), [Japan](#), [Senegal](#)

“Any order to extend or withdraw an extension must be preceded by consultations with professional organizations and all interested persons, who must submit their comments within a period of 30 days. An order of the Minister for Labour shall determine the procedures for such consultations” (unofficial English translation). Senegal, Art. L. 91 LC

Which provisions of collective agreements are extended?

Recommendation No. 91 envisages that that “all or certain stipulations” of a collective agreement can be extended (Para. 5(1)), implying that only specific parts or provisions of a collective agreement may be extended. This raises the question: on what basis should decisions be made about which specific clauses of collective agreements to extend or not to extend?

IRLex shows that whereas in some industrial relations systems the extension of collective agreements is provided for in full, in others there is some latitude for differences between the original agreement and the extended version. In almost every case, this involves removing rather than adding content, most often without specifying the subject matters to be included or left out. This may be at the request of the social partners or on the initiative of the public authorities.

► **Table 4: Procedures that allow limiting the provisions to be extended**

Faculty that may be exercised by the parties on the content of the collective agreement before its extension	Specific procedural requirements	Country examples ¹³	Legal texts from IRLex
Adding or removing content from the extended collective agreement	At the request of the social partners	Bulgaria , Bosnia and Herzegovina , Chile , Eswatini , Rwanda , Serbia	<p>“(…) the Minister of Labour and Social Policy may, upon their [workers’ and employers’ organizations] joint request, extend the application of the agreement or of individual clauses thereof to all enterprises of that industry or branch” (unofficial English translation). Bulgaria, Labour Code 1986, Art. 51(b) 4</p> <p>A Joint Negotiation Council may request the Minister to make some or all of the provisions of a registered collective agreement concluded by the Council binding upon all employers and employees within the industry or area in respect of which the Council is registered in terms of section 45 (unofficial summary and English translation). Eswatini, Sec. 50 Industrial Relations Act</p> <p>The ministry responsible for labour may, at the initiative of the parties to the collective agreement or when it deems it to be in the best interests of the Republic, decide that certain subjects be excluded from the application of the collective agreement (unofficial summary and English translation). Bosnia and Herzegovina, Art. 159(4) Labour Code</p>

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¹³ The lists of referenced IRLex country profiles and national legal provisions are exemplary and non-exhaustive; country examples cited were chosen purely to illustrate and do not include or imply any evaluation of their conformity with international labour standards.

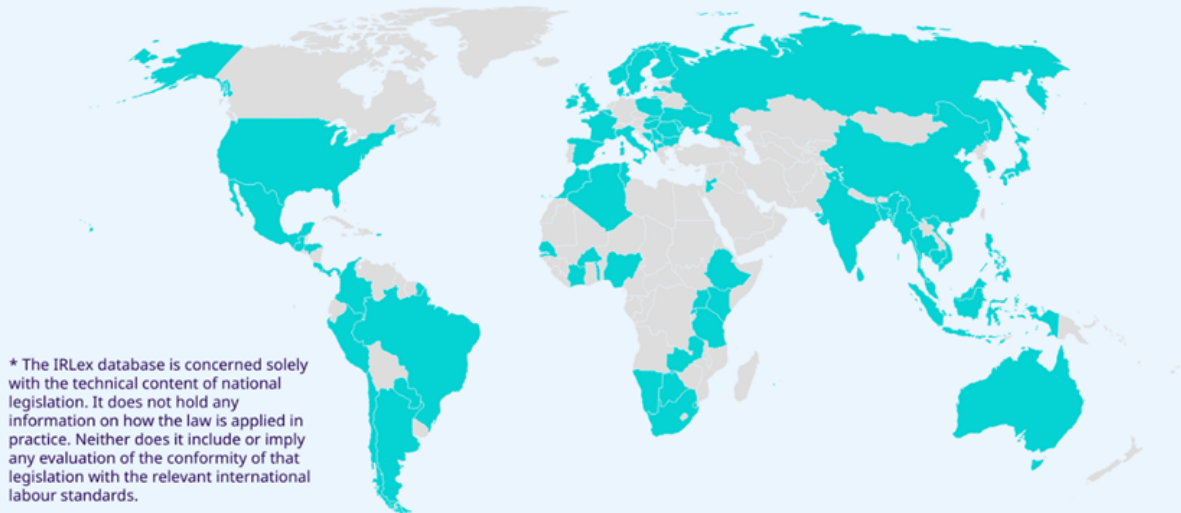
<p>On the initiative of the public authorities if provisions contradict national laws and regulations</p>	<p>Burkina Faso, Côte d'Ivoire, France, Senegal, Togo</p>	<p>"(...) the Minister in charge of Labour must exclude from the extension, after having received the opinion of the Consultative Labour Commission, the provisions that would be in contradiction with the legislative or regulatory texts in force. Under the same conditions, the Minister may remove from the collective agreement, without modifying its structure, the clauses that are not appropriate to the branch or branches of activity concerned" (unofficial English translation). Côte d'Ivoire, Art. 14 Labour Code, Decree No. 98-41</p>
<p>On the initiative of the public authorities for various reasons</p>	<p>Norway, Togo</p>	<p>"However, the Minister in charge of Labour, after consulting the National Labour Council, must exclude any provisions from this extension that might contradict the laws and regulations in force. Moreover, it may, under the same conditions, remove from the agreement – without altering its general structure – clauses that do not correspond to the context of the branch of activity in the field of application in question" (unofficial English translation). Togo, Art. 106 (4) LC</p>

Where to get additional information on legal mechanisms for the extension of collective agreements?

- Tables 1–4 above show legal mechanisms for the extension of collective agreements in selected ILO Member States. The online database [IRLex](#) can be used to access summaries and full texts of relevant national legal sources and to explore regulatory examples in more depth.
- The IRLex database is concerned solely with the technical content of national legislation. It does not hold any information on how the law is applied in practice. Neither does it include or imply any evaluation of the conformity of that legislation with the relevant international labour standards. The comments of [ILO supervisory bodies](#) should be consulted to assess the application of standards by ILO Member States in law and practice.
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ILO Legal Database on Industrial Relations (IRLex) – 2022

- Country is covered in the IRLex database*
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