



# LACK OF COLLECTIVE CONTRACTS

*Failure to Ensure  
Social Dialogue and  
Collective Protection  
of Workers*



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# Content

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09	Executive summary	24	Non-establishment of Economic and Social Council as a obstacle to general collective agreements
12	History of Collective Agreements between unions and government	26	Failure to keep the promise of cooperations with unions
13	Principles for bargaining and collective agreements	27	Lack of proactivity from the Government and Assembly in advising on collective agreements
14	Constitutional principles in Kosovo for union freedom in negotiations and collective agreements	28	Entities covered by collective bargaining
17	Harmonization of ILO Conventions in local legislation	29	Avoidance of discrimination and differentiation in the treatment of Collective Agreements
18	History of collective agreements in Kosovo	30	Budgeting of Collective Agreements
21	Role and responsibility of the union	31	Withdrawal from collective agreements
23	Government's obligation to respond to union requests	34	Recommendations



# ACRONYMS

<b>ARK</b>	Assembly of the Republic of Kosovo
<b>OPMK</b>	Office of the Prime Minister of Kosovo
<b>PCP</b>	Public Consultation Platform
<b>UUESC</b>	United Union of Education, Science and Culture
<b>UIUK</b>	Union of Independent Unions of Kosovo
<b>LP 2024</b>	Legislative Plan for 2024
<b>MFLT</b>	Ministry of Finance, Labor and Transfers
<b>CC</b>	Constitutional Court
<b>LSFPS</b>	Law on State-Funded Pension Schemes
<b>RPA</b>	Rules of Procedure of the Assembly
<b>KLI</b>	Kosovo Law Institute
<b>GRK</b>	Government of the Republic of Kosovo
<b>MLSW</b>	Ministry of Labor and Social Welfare
<b>IO</b>	Institution of the Ombudsperson
<b>CoE</b>	Council of Europe
<b>VC</b>	Venice Commission





# 1. Executive summary

"We will enhance cooperation with unions by supporting and encouraging workers to establish unions at every level of employment." This was the election promise that brought the VETËVENDOSJE Movement! to the early elections in 2021. While LVV had pledged to strengthen its relationship with unions while in opposition, the opposite occurred once it assumed power. Efforts began to undermine the unions and their role, alongside a pattern of publicly downplaying and disregarding unions and their representatives. Union leaders and representatives became frequent targets of criticism from Prime Minister Kurti, Minister Murati, and other ruling party members.

In Kosovo, collective contracts have either been canceled or stalled due to the government's lack of will to engage in social dialogue for negotiating their continuation. The current labor law, unchanged since 2010, remains outdated. Kosovar workers, feeling neglected and their rights violated by the government, are now seeking justice and protections through legal avenues.

In 2019, some limited steps were taken toward adopting a new labor law and a dedicated law on maternity issues, but neither was passed. Additionally, over 90% of worker protection draft laws slated for approval since 2021—including the Draft Law on Labor, the Draft Law on the Labor Inspectorate, and the Draft Law on Safety and Health at Work—remain unapproved.

While the Government and Assembly have failed to meet their constitutional and legal duties concerning workers' rights, the government has taken unilateral actions that further erode these rights. The Ministry of Education, Science, Technology, and Innovation's abrupt withdrawal from the Collective Contract with the United Union of Education, Science, and Culture, as well as the Ministry of Health's termination of the Collective Contract with the Health Federation, represent clear violations of social rights guaranteed under Kosovo's legislation and the standards of the International Labor Organization (ILO). As of now, no workers in Kosovo are covered by collective agreements.

This paper will explore several critical questions: How can unions respond to this dismissive approach by the executive bodies? How can they prevent such an approach from being normalized? What strategies should unions use to effectively represent workers? What are the government's responsibilities in this regard? What issues should be negotiated at the level of social partners, and how can social dialogue be strengthened? How should union budgetary needs be addressed? How can collective contracts include provisions for full gender equality in pay and opportunities, along with gender-sensitive parental leave policies? These are the issues that the Kosovo Law has consistently addressed and advocated for.

The Constitution of Kosovo guarantees workers the freedom to form and join trade unions, empowering them to protect their interests without fear of employer retaliation. Union organization plays a vital role in fostering a culture of social responsibility, safeguarding workers' rights, and addressing critical issues like discrimination and workplace conditions.

International standards on freedom of association and collective bargaining include key documents such as the European Convention on Human Rights, which ensures individuals' rights to join trade unions, and the revised European Social Charter, which affirms the rights to form organizations and engage in collective bargaining. These documents emphasize the importance of union involvement in negotiation processes and support the establishment of an environment where both workers and employers can advocate for their interests

The International Labor Organization (ILO) has established conventions and recommendations that promote freedom of association and collective bargaining, including the Conventions on Freedom of Association and Collective Bargaining. These conventions advocate for social dialogue between employers and employees, ensuring that both perspectives are represented. The Venice Commission has also issued recommendations on freedom of association, highlighting it as a fundamental right essential to democratizing and strengthening democratic institutions.

Under ILO principles, collective bargaining is a fundamental right that must be upheld and encouraged by member states. These negotiations should include all stakeholders, be voluntary, and have priority over individual employment contracts. Any limitations on collective agreements should be rare, involve consultation with representative organizations, and always respect the autonomy of the parties involved.

In this report, KLI highlights that the absence of the Economic-Social Council (ESC) in Kosovo—stemming from the Ministry of Finance, Labor, and Transfers' failure to establish it—has created an atmosphere of uncertainty for public sector workers. This issue, acknowledged by the ministry, the government, and the Assembly of Kosovo, obstructs social dialogue and leaves workers without a legal body to negotiate their working conditions, leading to heightened social tensions and frustration among them. Additionally, the failure to establish ESC violates the Ministry's legal obligations, depriving employees of a strong voice in policies impacting their professional lives. This underscores the institutions' lack of commitment to addressing workers' concerns, ultimately jeopardizing the country's social and economic stability.

Furthermore, this absence of dialogue erodes workers' trust in institutions, leading to departures from the public sector and potentially risking a decline in service quality. The Prime Minister and the Assembly of Kosovo hold a significant role in addressing this issue, yet they have shown little visible commitment to resolving it so far.

Additionally, unions like UJESC and the Health Federation have encountered persistent issues regarding workers' rights, pushing many members to seek justice through the courts. The government's failure to fulfill obligations, such as providing jubilee salaries and daily allowances, has further added strain to the judicial system.

## 2. History of Collective Agreements between unions and government

The concept of collective contracts originated in response to unfair labor practices during the Industrial Revolution in the 19th century. As employers gained more power, workers were subjected to poor working conditions and low wages. Unions began to form to protect workers' interests and give them a unified voice in negotiations with employers. Initially, unions faced opposition from governments and employers, who viewed them as threats to economic stability and public order. However, over time, governments recognized that collective bargaining could help ease social tensions and establish a fairer balance between workers and employers.

The role of governments in collective bargaining evolved substantially from the late 19th to the early 20th century. Following World War I, government intervention in union-employer relations became more common as governments sought to maintain economic stability and prevent social unrest. The establishment of the International Labor Organization (ILO) in 1919 marked a significant step in regulating labor relations, promoting the right to collective bargaining, and encouraging governments to acknowledge and uphold this right.[1]

Over time, many countries passed laws recognizing unions and granting them the right to negotiate on behalf of workers. In the United States, the National Labor Relations Act of 1935 [2] (also known as the Wagner Act) was a landmark law, securing workers' rights to join unions and engage in collective bargaining with employers. Similarly, European countries like the United Kingdom and Germany began to regulate labor relations with similar legislation.

After World War II, collective contracts became a crucial tool for promoting workplace equality and reducing social tensions. In many European nations, such as France and Sweden, unions and governments worked together to establish fair standards for wages and working conditions. In Sweden, the "central collective contract"[3] model became a cornerstone of social policies, grounded in the principles of solidarity and equality.[4]

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[1] Freedom of Association and Collective Bargaining: General Survey of the Reports Relating to the Right to Organize and Collective Bargaining Convention, 1949 (No. 98); (See: [https://webapps.ilo.org/public/libdoc/ilo/P/09661/09661\(1994-81-4B\).pdf](https://webapps.ilo.org/public/libdoc/ilo/P/09661/09661(1994-81-4B).pdf)), (Last accessed September 20, 2024)

[2] National Labor Relations Act; Docs Teach; (See: <https://www.docsteach.org/documents/document/national-labor-relations-act>), (Last accessed September 20, 2024).

[3] Kjellberg, A. (2020); "The Swedish Model of Industrial Relations and Its Evolution"

[4] Industrial relations and the crisis: the Swedish experience / Dominique Anxo; International Labour Office, Governance and Tripartism Department; Geneva:ILO, 2017.

In Eastern Europe and communist countries, the relationship between unions and governments followed a distinct approach. Unions often operated as state-controlled organizations, managed by communist governments, and lacked the independence to effectively represent workers' interests. Following the collapse of communist regimes at the end of the 20th century, unions in these countries began to gain autonomy and began using collective contracts to safeguard workers' rights. [5]

In recent decades, globalization has had a major impact on collective agreements. As international corporations expanded into countries with lower labor costs, unions faced new challenges in maintaining their bargaining power.[6] Governments, under pressure to liberalize labor markets, also found it more difficult to uphold high standards for working conditions and wages. Despite these challenges, collective agreements remain a vital tool for protecting workers' rights, particularly in the public sector, where governments are often the primary employers.

### 3. Principles for bargaining and collective agreements

The key international standards addressing freedom of association and collective bargaining include the European Convention for the Protection of Fundamental Human Rights and Freedoms, which guarantees the right to freedom of association, including the right to form and join trade unions to protect one's interests.[7] Additionally, the revised European Social Charter of 1996 outlines in Article 5 the rights of workers and employers to create local, national, and international organizations for the protection of their economic and social interests. Article 6 further guarantees the right to collective bargaining, ensuring that unions have the opportunity to engage in collective negotiations, organize their own meetings, and access workers.[8]

The International Labor Organization (ILO) Conventions also establish principles and obligations for states, incorporating these documents into domestic legislation. Notable ILO conventions include the Convention on Freedom of Association and Protection of the Right to Organize (No. 87) and the Convention on the Right to Organize and Collective Bargaining (No. 98). Other relevant international instruments include the Convention on the Protection and Facilities to be Given to Employee Representatives in Enterprises (No. 135), the Recommendation on the Representatives of Employees (No. 143), and the Recommendation on Collective Bargaining (No. 163).

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[5]Crowley, S. (2004); "Explaining Labor Weakness in Post-Communist Europe; East European Politics and Societies; (See: [https://ces.fas.harvard.edu/uploads/files/Working-Papers-Archives/CEE\\_56.pdf](https://ces.fas.harvard.edu/uploads/files/Working-Papers-Archives/CEE_56.pdf)), (Last accessed September 20, 2024).

[6]Munck, R. (2002); Globalization and Labour: The New, "Great Transformation"; (See: <https://www.docsteach.org/documents/document/national-labor-relations-act>), (Last accessed September 20, 2024).

[7]Article 11; Convention for the Protection of Human Rights.

[8]European Social Charter (revised); Council of Europe; (See: <https://rm.coe.int/168047e169>), (Last accessed October 10, 2024).

Another set of international standards regarding social dialogue includes the Recommendation on Consultation and Cooperation between Employers and Employees at the Enterprise Level (No. 94) and the Recommendation on Communication between Management and Employees within the Enterprise (No. 129).

Additionally, many ILO Conventions and Recommendations include provisions that promote social dialogue. These provisions emphasize the need for consultation with representative organizations of both employers and employees to ensure that the perspectives of both sides are equally represented.

The Venice Commission has also addressed issues related to freedom of association and collective agreements within the framework of international human rights standards and the right to organize. Specifically, some of its reports offer opinions and recommendations on how freedom of association and collective contracts should be handled in line with democratic principles and the protection of social rights

The Commission has emphasized that freedom of association is a fundamental right protected by the "European Convention on Human Rights" (Article 11), which safeguards the right of individuals to form and join trade unions to protect their interests. This freedom encompasses the right to engage in collective bargaining and to strike. In specific cases, the Commission has addressed restrictions on trade union freedoms, advising that such restrictions should be proportional and not obstruct the free operation of unions.[9] Additionally, the Commission has stated that active, vibrant democracy relies on a broad range of democratic institutions, including trade unions.[10] Historically, the ability to organize unions has been a catalyst for democratization and the overall development of countries.

Regarding collective agreements, the Commission has affirmed that these agreements are a vital tool for ensuring the social protection and economic rights of workers. It has recommended that national laws both protect and promote the collective bargaining process, ensuring that these agreements are enforceable.

The European Union's directives on Freedom of Association and Collective Agreements are outlined in Directive 2002/14/EC, which establishes a framework for the information and consultation of employees across the EU. This directive mandates that EU member states guarantee employees the right to be informed and consulted within their workplaces, covering aspects of collective bargaining and the protection of workers' interests through trade unions

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[9] Venice Commission of the Council of Europe; CDL-AD(2014)046-e; "Joint Guidelines on Freedom of Association"; (See: [https://www.venice.coe.int/ëebforms/documents/?pdf=CDL-AD\(2014\)046-e](https://www.venice.coe.int/ëebforms/documents/?pdf=CDL-AD(2014)046-e)). (Last accessed October 10, 2024).

[10] Ibid.

Directive 98/59/EC addresses the collective protection of employees in the event of mass redundancies, offering safeguards to workers when an employer plans large-scale layoffs. It sets out requirements for consulting with employee representatives and trade unions. Directive 2001/23/EC focuses on protecting employees' rights, including those related to collective agreements, during transfers of undertakings, ensuring that workers' rights are maintained when ownership of a business changes hands.

**Core principles of the International Labor Organization (ILO) regarding the right to collective bargaining, as outlined in its Declarations, Conventions, and Recommendations.**

- Collective bargaining is recognized as a fundamental right by ILO member states, which are obligated to respect, promote, and implement it in good faith.
- This right applies to both employers' and employees' organizations, facilitating collective bargaining at various levels.
- Negotiations with non-union employees are permissible only when no union is present.
- Collective bargaining applies to all employees in both the public and private sectors, with exceptions for the military, police, and certain civil servants.
- The scope of collective bargaining includes not only traditional working conditions (such as wages and working hours) but also other employment terms.
- Negotiations must be voluntary and respect the autonomy of all parties involved.
- While larger unions may have certain advantages, smaller unions should also have the right to negotiate on behalf of their members.
- Unjustified refusal to recognize representative organizations can impede the progress of collective bargaining.
- Collective negotiations should occur at both national and enterprise levels without being imposed unilaterally by legislation.
- The parties must engage in good faith negotiations, which includes recognizing representative organizations, working toward agreement, and avoiding unnecessary delays.
- Mandatory arbitration generally contradicts the principles of collective bargaining and should be used only in specific circumstances, while voluntary arbitration is always acceptable.
- Collective agreements are binding and take precedence over individual employment contracts, except where individual contracts offer more favorable terms.
- Requiring prior approval of collective agreements by authorities may restrict free bargaining, unless it is limited to procedures or minimum standards. A broad authority to deny approval is inconsistent with party autonomy.
- Any restrictions on future collective agreements concerning wages or conditions must be exceptional, necessary, temporary, and involve prior consultation with the relevant organizations.

## **4. Constitutional principles in Kosovo for union freedom in negotiations and collective agreements**

The right to form trade unions and organize for the protection of interests is guaranteed by the Constitution of Kosovo, particularly in Chapter II on Fundamental Rights and Freedoms.[11] This guarantee not only allows for the creation and enactment of laws facilitating union formation but also ensures a space where workers can engage without fear of repression or retaliation.

Article 44, paragraph 2, of the Constitution of Kosovo affirms that every individual has the right to join trade unions to protect their interests. This right, enshrined in the constitution, is a clear manifestation of civil liberty, enabling employees to organize and act collectively to pursue common goals. By protecting this right, the Constitution of Kosovo fosters an environment in which individuals feel empowered and safeguarded, giving them a voice and the ability to influence their working conditions and professional lives.

Union organizing is also a crucial element in cultivating a culture of social responsibility. Unions not only defend employees' rights but also advocate for social and economic values that impact the well-being of the broader community. They provide platforms to address issues such as workplace discrimination, low wages, and poor working conditions.

Freedom of association plays a crucial role in expanding democracy and strengthening democratic values within a country. When individuals can organize and voice their opinions through trade unions, they actively contribute to the democratic process. This allows employees to engage in meaningful dialogue and participate in decision-making, which in turn influences labor policies and economic development.

Moreover, a robust union culture promotes transparency and accountability within institutions and companies. It encourages employers to adhere to ethical and legal standards, ensuring that employees are treated with respect and dignity. Overall, this fosters a positive working environment and strengthens democracy, enabling citizens to play an active role in the advancement of their society.

As mentioned earlier, the right to form trade unions is guaranteed in the Constitution as an aspect of civil liberty and employees' rights. However, the Constitution does not specifically address the possibility of signing collective contracts.

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[11] Paragraph 2, Article 44, Constitution of the Republic of Kosovo; Official Gazette of the Republic of Kosovo; (See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>), (Last accessed September 20, 2024).



This right is primarily governed by specific legislation, such as the Law on Trade Union Organization [12] and the Law on the Economic and Social Council.[13] These laws outline the mechanisms and procedures through which trade union organizations can negotiate and sign collective agreements, ensuring that employees have a formal and legal avenue to defend their interests.

While constitutional norms provide a solid foundation for the protection of trade union rights, it is the law that gives substance and function to these rights. For instance, the Law on Trade Union Organization grants unions the right to negotiate collective agreements that address working conditions, wages, and benefits for their members. The connection between constitutional principles and specialized legislation is crucial for creating a supportive environment for employees and unions, equipping them with the tools to protect and advance their rights.

Additionally, the Law on the Economic and Social Council establishes a platform for cooperation and negotiation between trade unions, employers, and the government on critical economic and social matters. This structure strengthens social dialogue and promotes the signing of collective agreements, ensuring that employees' voices are considered in decision-making processes.

In this way, the constitutional right to unionize, alongside relevant laws, forms an integrated system that supports unions in negotiating collective agreements. This not only safeguards employees' rights but also contributes to fostering a more stable and democratic social and economic environment in Kosovo.

## **5. Harmonization of ILO Conventions in local legislation**

Kosovo's legislation, particularly in relation to labor relations, is grounded in fundamental human rights principles and constitutional protections. These principles are designed to safeguard the essential rights of employees, in alignment with international standards. The international agreements incorporated into Kosovo's Constitution ensure that the country fulfills its obligations concerning global labor rights standards.

Moreover, Kosovo's legal framework respects the principles outlined in several international conventions [14] that have yet to be ratified by the country.[15] This approach ensures that,

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[12]Article 15, 17 and 20, Law No. 04/-L-011 for Trade Union Organization in Kosovo; Official Gazette of the Republic of Kosovo; (See: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2747>), (Last accessed October 10, 2024).

[13]Article 8, Law No. 04/L-008 on Economic and Social Council; Official Gazette of the Republic of Kosovo; (See: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2747>), (Last accessed October 10, 2024).

[14]Preamble to Labor Law 03/L-212; Official Gazette of the Republic of Kosovo; (See: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2735>), (Last accessed September 20, 2024).

[15]Article 3, 16, 18 and 27, Law No. 04/L-011 for Trade Union Organization in Kosovo; Official Gazette of the Republic of Kosovo; (See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2754>), (Last accessed September 20, 2024).

even in the absence of formal ratification, the core principles of these international documents are integrated into national legislation, providing comprehensive protection for employees' rights.

In line with these principles, Kosovo has enacted a significant set of laws governing labor relations. These include the Labor Law, the Law on the Economic and Social Council, the Law on Trade Union Organization, and the Law on Strikes, all of which establish a structured environment for workplace rights and obligations.

The full protection of employees, enhancement of their working conditions, and provision of a safe workplace are best achieved when the legal guarantees of freedom of association and the right to organize are effectively enforced. These principles form the foundation for creating a fair and secure work environment for all.

Additionally, it is crucial to recognize that the right to negotiate and take collective action are vital aspects of employee rights. These rights empower workers to negotiate better working conditions and defend their interests collectively

Equally important, the comprehensive protection of workplace rights is essential for ensuring both safety and fairness for employees. This encompasses not only legal protections but also the establishment of a cooperative and dialogical relationship between workers and employers [16], —a framework that Kosovo has committed to implementing.

## **6. History of collective agreements in Kosovo**

Since the end of the recent war, collective agreements have been signed in Kosovo between unions and various public institutions, including the Ministry of Education, Science, Technology and Innovation, the Ministry of Health, Kosovo Post and Telecom, and the Municipality of Kamenica. These agreements demonstrate a shared commitment to improving working conditions and safeguarding the rights of employees in these sectors.

Nevertheless, unions have consistently advocated for better conditions for workers, emphasizing the need for higher wages, enhanced working conditions, and ensuring health and safety in the workplace. These demands have been voiced in numerous discussions, reflecting an ongoing commitment to secure a dignified and safe life for workers. Over the years, unions in Kosovo have played a pivotal role in raising these issues through mobilizations, discussions, and actions, continuously seeking a constructive dialogue with institutions to find stable and beneficial solutions for all parties involved.

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[16] ETUC Resolution on a Rights-Based Trade Policy for Workers and Employment; European Trade Union Confederation; (See: [https://www.etuc.org/en/document/etuc-resolution-rights-based-trade-policy\\_workers-and-jobs#\\_edn9](https://www.etuc.org/en/document/etuc-resolution-rights-based-trade-policy_workers-and-jobs#_edn9)), (Last accessed September 20, 2024).

## **The General Collective Agreements of Kosovo (2004 – 2007)**

The 2004 Collective Agreement between the Government of Kosovo, the Chamber of Commerce, and the Union of Independent Trade Unions was a significant accord designed to safeguard workers' rights and enhance working conditions. The agreement included provisions for social protection, wage increase benchmarks aligned with the cost of living, the right to unionize, and mechanisms for resolving labor disputes. Its objective was to strengthen socio-economic stability in Kosovo and foster dialogue between employers and employees.

## **Kosovo's Collective Education Contract (2005 – 2014)**

This was one of the first collective agreements in the education sector prior to independence and remained in effect without interruption until 2014. It was the result of intense negotiations between UUESC and the Ministry of Education and included improvements in teachers' salaries, increased social benefits, and better working conditions for academic staff. This agreement laid the groundwork for future negotiations aimed at further improving conditions in the sector.

## **The General Collective Contract of Kosovo (2014-2017)**

This agreement between the Government of Kosovo and labor unions applies to both the public and private sectors. It set out fundamental standards for wages, working hours, and other social benefits. A key achievement was the creation of mechanisms for wage increases and ensuring health protection for all workers. The contract stipulated that domestic helpers must have a work contract, with pay linked to job performance, allowances for special workloads, a 0.5% salary increase for each year of work experience above the basic salary, and a 13th-month salary for each calendar year. It also included provisions requiring employers to pay men and women equally for the same work.[17]

## **Collective Sectoral Health Contract (2011-2014)**

The goal of this collective agreement was to enhance working conditions for doctors, nurses, and other healthcare professionals in Kosovo. The agreement provided for wage increases, better health and safety protections in the workplace, and additional social benefits during this period. Specifically, it included a 0.5% salary increase for each year of service above the base salary, a thirteenth-month salary for each calendar year, and increased hazard allowances.[18]

## **Kosovo's Collective Education Contract (2014 – 2017)**

The purpose of this contract is to provide a clear and detailed definition and regulation of the rights, responsibilities, and obligations of all parties involved. It also supports and benefits employees in higher education and culture when drafting second-level contracts, particularly for provisions that establish general standards in the employer-employee relationship, as outlined in international labor conventions and the Labor Law of the Republic of Kosovo.

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[17]General Collective Agreement; Official Gazette of the Republic of Kosovo; (See: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=9534>), (Last accessed September 20, 2024).

[18]Sectoral Collective Contract of Health in Kosovo; Ministry of Health; (See: <https://msh.rks-gov.net/Documents/DoenloadDocument?fileName=Kontrat%C3%AB%20Kolektive%20Sektoriale%20neni%20536424657.7132.pdf>), (Last accessed September 20, 2024).

The new contract applies to all education workers, including those at the University, and differs from the previous one. Provisions that were protected under the old contract, such as follow-on pay, will remain in effect. Additionally, this new contract includes provisions for higher education workers as well.

### **Kosovo's Collective Education Contract (2017 – 2021)**

The purpose of this agreement was to establish special rights for providers of pre-university education. Additional benefits included salary increases for licensed teachers, enhanced workplace health and safety measures, reimbursement of tuition fees for days off, coverage of 70% of travel expenses to commune residences based on urban traffic fares, a work experience allowance of 0.5% of the base salary for each full year of service, a food allowance of 2 euros per employee, and increased jubilee salary.[19]

### **Kosovo's Collective Education Contract (2021 – 2024)**

The goal of this collective agreement was to enhance working conditions for teachers, with a particular focus on salary increases based on career licensing. Teachers with a career license received a 10% increase in their base salary, those with an advanced license received an additional 10%, mentors received 15%, and those recognized for merit also received 15%. The agreement also included a 0.5% salary increase for each year of work experience beyond the base salary, an escalating jubilee salary, and reimbursement for 70% of road expenses based on urban traffic fares.[20]

### **PTK Collective Contract (2015-2018)**

The collective agreement of PTK (Post and Telecom of Kosovo) aimed to safeguard the rights of employees within this public enterprise.[21] It included provisions for wage increases, additional benefits for workers, and measures to protect staff from significant layoffs. The agreement also established mechanisms for resolving disputes between management and employees.

### **Collective Sectoral Health Contract (2018 – 2021)**

This agreement was signed to address the specific needs of the healthcare sector following the conclusion of the previous agreement. It included salary increases for each year of service by 0.5% above the base salary, a 13th-month salary compensation for each calendar year, and a jubilee salary based on work experience for every ten years of service.[22]

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[19] Collective Contract of Education in Kosovo; United Union of Education, Science and Culture; (See: <https://sbashk-rks.org/kontrata.pdf>), (Last accessed September 20, 2024).

[20] Collective Contract of Education in Kosovo; United Union of Education, Science and Culture; (See: <https://www.sbashk-rks.org/kontrata2021.pdf>), (Last accessed September 20, 2024).

[21] The collective contract is signed in Telecom of Kosovo; PTK; (See: <https://kosovotelecom.com/njoftime/>), (Last accessed September 20, 2024).

## Collective contract at the enterprise level (2019 – 2022)

In 2019, the United Union of Education, Science and Culture (UTUESK) and the Municipality of Kamenica signed a collective contract at the enterprise level, which aimed to improve the working conditions for teachers and educational staff in this municipality. Furthermore, this contract regulated the issue of resettlement and protected the interests of the teacher, ensuring that no teacher would be left without an income.

## 7. Roles and responsibility of the unions

The signing of a collective agreement represents a significant milestone in the relationship between employers and employees. A successful collective agreement is the outcome of productive negotiations, with the union playing a central role in the process.

Trade unions serve several functions, some of which have been more prominent at different points in history. Over time, however, unions have developed five key functions: service, representation, regulation, governance, and public administration. [23]

The role and responsibilities of trade unions are crucial to achieving a fair and balanced collective agreement. Unions not only advocate for workers' interests but also foster a culture of social dialogue and cooperation between all parties involved. For a genuine culture of social dialogue to thrive, it requires commitment and concrete actions, with support from both the government and the public. Additionally, other unions must learn how to develop social dialogue effectively in pursuit of collective agreements.

Before entering negotiations, unions must gather information on the issues at hand, including wage benchmarks, to properly prepare. The International Labor Organization (ILO) highlights the importance of unions creating a negotiation agenda that reflects the demands of their members.

Building solidarity among workers is a core function of trade unions. To demonstrate collective strength during negotiations, members must be mobilized, and unity must be fostered. The AFL-CIO asserts that solidarity enhances the union's bargaining position, which is why they organize various activities and initiatives to engage members.[24] Unions may organize meetings, protests, and campaigns to ensure active member participation in the bargaining process.

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[22] Collective Sectoral Health Contract; Ministry of Health; (See: <https://msh.rks-gov.net/Documents/DownloadDocument?fileName=Kontrata%20Kolektive%20Sektoriale%202018%20compressed47208540.4949.pdf>), (Last accessed September 20, 2024).

[23] K.D. Ewing; The Functions of Trade Unions; Industrial Law Journal; Mars, 2005; (See: <https://heinonline.org/HOL/LandingPage?handle=hein.journals/indlj34&div=5&id=&page=>), (Last accessed: 20.10.2024)

[24] Collective Bargaining; AFL-CIO America's Unions; (See: <https://aflcio.org/what-unions-do/empower-workers/collective-bargaining>), (Last accessed October 10, 2024).

Another important consideration is the active involvement of union members, where transparency and accountability play a crucial role in the negotiation process. Union representatives should be properly trained in negotiation and conflict resolution skills. Additionally, unions need to establish a clear negotiation strategy, which includes identifying key issues and formulating a comprehensive plan for the negotiation process.

Effective collective bargaining requires union leaders to be well-versed in labor laws and negotiation strategies. The International Labor Organization (ILO) offers resources [25] and initiatives to enhance the capacity of trade unions globally.[26] Unions should prioritize this training to strengthen their members' communication, negotiation, and conflict resolution skills. Since disputes can arise during negotiations, unions should have a conflict resolution plan in place to prevent issues from escalating and ensure a smooth negotiation process. If talks reach an impasse, unions must be ready to employ mediation and arbitration, as emphasized by the ILO, to resolve labor disputes.

To ensure all perspectives are considered, unions should start the bargaining process by forming a committee of elected representatives that reflects the diversity of the membership. This committee should conduct thorough research on industry standards, wage levels, and working conditions to establish clear priorities for the bargaining agenda.

Through surveys, meetings, or briefings, unions should engage their members in discussions about the planned bargaining agenda and actively involve them in addressing key issues. To ensure alignment, the negotiating committee should also develop a strategy that outlines their approach, including key topics, desired outcomes, and potential concessions. This strategy should be communicated to the union members.[27]

Once preparations are complete, the union should initiate discussions with the government or employer, fostering open communication and active listening to cultivate a cooperative atmosphere. Throughout the bargaining process, the union should provide regular updates to members, keeping them informed of progress and any challenges encountered.

To reflect the collective will, the union must propose a draft agreement for ratification by members through meetings or voting. Following ratification, the union is responsible for ensuring the implementation of the collective agreement, monitoring compliance, and addressing any grievances that may arise.

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[25] Collective bargaining and labor relations; International Labour Organization; (Shih linkun: <https://www.ilo.org/topics/collective-bargaining-and-labour-relations>), (Last accessed October 10, 2024).

[26] Collective Bargaining; International Labour Organization; (See: [https://www.ilo.org/sites/default/files/wcmsp5/groups/public/eed\\_protect/eprotrav/travail/documents/instructionalmaterial/wcms\\_425004.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/eed_protect/eprotrav/travail/documents/instructionalmaterial/wcms_425004.pdf)), (Last accessed October 10, 2024).

[27] Minawa Ebisui; Non-standard workers: Good practices of social dialogue and collective bargaining; (Shih linkun: <https://www.ilo.org/media/357821/download>), (Last accessed October 10, 2024).

## 8. Government's obligation to respond to union requests

Article 11 of the European Convention on Human Rights (ECHR) implies that the "protection of interests" of trade unions includes their right to be heard by the relevant authorities[28], particularly the government when it comes to public sector employers.

This provision emphasizes the importance of granting trade unions the right to be heard by the authorities in order to safeguard their interests. It underscores the significant role unions play in the decision-making process as representatives of the working class, particularly in matters concerning public sector employees. Ensuring positive social dialogue and protecting employee rights and interests is essential.

To protect the interests of trade unions, authorities must commit to fostering an environment where the voice of unions is respected and taken into consideration. This involves organizing meetings, discussions, and consultations on issues affecting employees while ensuring an open and democratic process. The active participation of trade unions in decision-making promotes social stability and enhances public trust in institutions.

Trade unions should be actively involved in discussions about policies and working conditions that impact their members, particularly in state institutions and the public sector. This supports labor standards that meet current requirements and promotes healthy partnerships between employers and employees, ensuring that employees are included in decision-making and feel secure.

Moreover, government officials must adhere to this article to prevent potential conflicts between employers and employees. When unions are given the opportunity to express their concerns and propose solutions, it helps resolve issues before they escalate into deeper conflicts. Open and transparent discussions between the parties can foster a better and more productive working environment.

In conclusion, Article 11 of the ECHR highlights the importance of continuous communication between trade unions and relevant authorities, emphasizing the protection of union interests in the public sector.

In the case of Kosovo, however, Article 11 of the ECHR has not been fully implemented as stipulated by paragraph 2 of Article 44 of the Constitution. In every collective agreement signed to date, unions have faced long and challenging negotiations to reach agreements with the government.

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[28] Venice Commission of the Council of Europe; CDL-AD(2014)046-e; "Joint Guidelines on Freedom of Association"; pg.60; (See: [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2014\)046-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2014)046-e)), (Last accessed October 10, 2024).

This situation has arisen due to the passive, and in the last four years (2021-2024), the counterproductive role of the Government, which is in opposition to constitutional principles, international agreements, and the laws in force in Kosovo.

This is evidenced by the absence of any collective, general, or sectoral agreements in Kosovo. The Government of Kosovo has opted for a confrontational approach[29] with the existing unions in Kosovo,[30] leading to more conflicts than the advancement of social dialogue[31] and the achievement of any agreements.[32]

The Global Index of Rights, which tracks key aspects of workplace democracy—including the right to form and join a trade union, the right to collective bargaining, the right to strike, and the right to freedom of speech and union—emphasizes the urgent need to restore and protect collective bargaining rights. These rights are crucial for ensuring fair labor practices and improving working conditions for all workers.

A study by the European Trade Union Institute (ETUI) asserts that governments have a responsibility to engage with trade unions on issues related to labor rights, linking this engagement to public accountability and transparency.[33] ETUI's research underscores the importance of government responses to trade unions, especially regarding working conditions, wages, workplace safety, and social benefits. This accountability is vital to ensuring that workers' voices are heard in the policymaking process.

## **9. Non-establishment of Economic and Social Council as an obstacle to general collective agreements**

Another fact that has made it impossible to reach the general collective agreement is the non-constitution of the Economic-Social Council (ESC), which is the responsibility of the Ministry of Finance, Labor and Transfers.[34]

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[29]The unions say that the Government ignored them, they warn of actions; Koha; (See: <https://www.koha.net/arberi/sindikatat-paralajmerojne-protesta-kritikojne-qeverine-per-moskomunikim>), (Last accessed October 10, 2024).

[30]Public and private sector unions criticize the Kurti Government's approach; Koha; (See: <https://www.koha.net/arberi/sindikatat-e-sektorit-publik-dhe-privat-kritikojne-qasjen-e-qeverise-kurti>), (Last accessed October 10, 2024).

[31]The unions say that the Government ignored them, they warn of actions; Koha; (See: <https://www.koha.net/arberi/sindikatat-thone-se-qeveria-i-injoroi-paralajmerojne-veprime>), (Last accessed October 10, 2024).

[32]JUUESC demands the commitment of the Assembly for the Government's agreement with the trade unions; Koha; (See: <https://www.koha.net/arberi/sbashk-u-kerkon-nga-angazhimin-e-kuvendit-per-marreshjen-e-qeverise-me-sindikatat>), (Last accessed October 10, 2024).

[33]ITUC Global Rights Index 2021; Global Rights Index; (See: [https://files.mutualcdn.com/ituc/files/ITUC\\_GlobalRightsIndex\\_2021\\_EN-final.pdf](https://files.mutualcdn.com/ituc/files/ITUC_GlobalRightsIndex_2021_EN-final.pdf)), (Last accessed October 10, 2024).

[34]Minimum wage decision raises legal dilemma, Free Europe; (See: <https://www.evropaelire.org/a/vendimi-per-pagen-minimale-ngre-dilema-ligjore-/33104398.html>), (Last accessed October 10, 2024).



The Ministry was fully aware that the mandate of the ESC had expired on April 18, 2023, and as a result, there is currently no functional ESC. This situation raises concerns about the institutions' commitment to creating a conducive environment for social dialogue, exacerbating the challenges faced by public sector employees.

The absence of a functioning ESC has serious and far-reaching consequences. Without a legal body to represent employees, there is no platform for negotiating and discussing their working conditions and rights. This results in heightened social tensions and an atmosphere of insecurity for workers, who feel ignored and unrepresented by decision-makers. The lack of dialogue can also lead to worker protests and potential conflicts with employers.

The Ministry of Finance, Labor, and Transfers' failure to establish the ESC constitutes a breach of its legal obligations, leaving employees without a strong voice in shaping policies that directly impact their professional lives. Furthermore, this neglect highlights the lack of seriousness with which responsible institutions are treating this matter, which threatens the social and economic stability of the country.

The social repercussions are equally concerning. The absence of an active ESC undermines trust in the institutions, creating feelings of frustration and neglect among workers. This situation may also contribute to an increase in public sector employee turnover, which could lead to a crisis in the quality of public services.

The Prime Minister and the Kosovo Assembly play a vital role in addressing this issue. They should hold the Ministry of Finance, Labor, and Transfers accountable for its failure to form the ESC.

However, it should be noted that neither the Prime Minister nor the Assembly have raised this issue in the form of parliamentary questions, interpellations, or discussions in relevant committees. This lack of attention and action by MAs on such an important matter, which directly affects the lives of citizens and workers, highlights the need for a more proactive and engaged approach to ensure that workers' voices are heard and respected.

Social dialogue is a fundamental element of the European social model, with the improvement of working and living conditions being a key goal of the European Union. Achieving this goal relies on methods like social dialogue and collective bargaining, which not only promote social justice, high-quality working conditions, and workplace democracy, but also contribute to increased productivity.

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[35] Strengthening social dialogue in the European Union: harnessing its full potential for managing fair transitions; Komisioni Evropian; (See: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX%3A52023DC0040>), (Last accessed October 10, 2024).

## 10. Failure to keep the promise of cooperation with unions

"We will enhance collaboration with trade unions by supporting and assisting workers in organizing unions at all levels of employment." [36] This statement was part of the 2021 early election campaign and is mentioned in the Government Program 2021-2025 [37]. However, it appears only as a single sentence under the sub-chapter "Economic Recovery - the creation of new jobs and economic development," rather than being included in the more relevant sub-chapters on "Social protection" and "Protection of workers' rights".

This situation demonstrates that, despite campaign promises to support trade union organization, this commitment has not been realized in practice. The consequences are clear, with increased insecurity for workers and a lack of support that hampers the strengthening of unions.

Under Prime Minister Albin Kurti's government, trade union activity has not received the necessary support. On the contrary, both he and some ministers have actively undermined trade union activities, particularly during the strike led by the United Union of Education, Science, and Culture, which was triggered by the union's demands for fulfilling certain rights. This highlights a significant gap between promises made and actions taken, underscoring the need for a more proactive and committed approach to supporting trade unions and protecting workers' rights.

"Indeed, it was not possible to have a captured state without some strongly captured trade unions," wrote Minister Murati on his Facebook page in response to the strike announced by the Union Health Federation of Kosovo. He stated that the strike was not in line with the current legislation regulating strikes. [38] "They are PAN trade unionists, with a course against the government of hope and progress. The trade unionists of PAN were banned from the clock on June 5, 2017, and now they want to serve PAN in the opposition," [39], said Prime Minister Kurti, commenting on the strike that took place in September 2022. He also dismissed the request of UUESC President Rrahman Jasharaj for a salary increase, recalling how he had addressed Jasharaj's plea for help, saying, "Help me as a brother, give us 100 euros - it doesn't work," Albin Kurti told Rrahman Jasharaj. [40]

The government's actions have sparked widespread criticism and eroded workers' trust in institutions, creating an unstable environment for negotiating working conditions. The consequences of undermining union activity are significant, hindering efforts to improve conditions for all workers.

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[36] Priorities for ALL citizens TOWARDS the future; Lëvizja VETËVENDOSJE! (See: [https://www.vetevendosje.org/alternativa\\_vv/prioritetet2021/](https://www.vetevendosje.org/alternativa_vv/prioritetet2021/)), (Last accessed October 10, 2024).

[37] Government Program 2021-2025; Government of Kosovo; (See: [Prioritetet për KREJT qytetarët DREJT së ardhmes; Lëvizja VETËVENDOSJE!](https://www.vetevendosje.org/alternativa_vv/prioritetet2021/); (Shih linkun: [https://www.vetevendosje.org/alternativa\\_vv/prioritetet2021/](https://www.vetevendosje.org/alternativa_vv/prioritetet2021/)), (Last accessed October 10, 2024)), (Last accessed October 10, 2024).

[38] Murati: It was not possible to have a captured state without some strongly captured trade unions Koha; (See: <https://www.koha.net/arberi/murati-nuk-ka-mundur-te-kete-shtet-te-kapur-pa-disa-sindikata-fort-te-kapura>), (Last accessed October 10, 2024).

[39] Kurti: PAN trade unionists have their time stuck in 2017; Koha; (See: <https://www.koha.net/arberi/kurti-sindikalisteve-pan-it-iu-kan-daluar-koha-ne-vitin-2017>), (Last accessed October 10, 2024).

[40] "Help me as a brother, give us 100 euros - it doesn't work ", Albin Kurti on Rrahman Jasharaj; Koha on Facebook; (See: <https://www.facebook.com/portalikohonet/posts/2061625137361014/?rdt>), (Last accessed October 10, 2024).

The Ministry of Finance, Labor and Transfers requested investigations into the United Union of Education, Science and Culture (UUESC), including the Labor Inspectorate and the Prosecutor's Office, to verify its claims on the union's financial irregularities. The minister of this ministry, Hekuran Murati, asked the competent bodies to take legal action to investigate this matter, in an effort according to him to guarantee transparency in the use of union funds.[41] In response, the head of the UUESC, Rrahman Jasharaj, accused Murati of trying to extinguish the union and obstructing the internal union dialogue, including measures such as the e-Kosova platform, which the union sees as a restriction on teachers' membership in the union.[42]

## **11. Lack of proactivity from the Government and Assembly in advising on collective agreements**

The United Union of Education, Science and Technology (UUESC) and the Federation of Health in Kosovo have encountered persistent issues regarding teachers' rights, compelling many to file lawsuits in Kosovo's courts. Benefits such as jubilee salaries, daily allowances, and travel reimbursements, guaranteed by the collective contract, were commitments made by the government but have not been consistently fulfilled.

Jubilee salaries, awarded to education workers after a certain period of service as a recognition of their long-term contributions, and daily allowances, meant to cover meal expenses during work hours as per the collective agreement, have not been provided. Additionally, travel compensation, particularly crucial for teachers who commute long distances, has also been withheld despite being a contractual obligation.

This failure by the Kosovo government and relevant ministries to meet their responsibilities has led to a significant influx of lawsuits from teachers and healthcare workers, further burdening the justice system.

Reports by the Venice Commission highlight the importance of collective contracts in safeguarding workers' rights, emphasizing that they are integral to the principle of freedom of association. These agreements facilitate effective negotiation mechanisms between unions and employers, often serving as essential tools to protect labor rights and support workers' welfare.

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[41] Murati invites the Prosecution to investigate UUESC; Zëri; (See: <https://zeri.info/aktuale/462121/murati-e-fton-prokurorine-ta-hetoje-sbashk-un/>), (Last accessed October 10, 2024).

[42] Jasharaj accuses the Government of trying to extinguish the unions; Koha; (See: <https://www.koha.net/arberi/jasharaj-akuzon-qeverine-se-po-tenton-ti-shuqje-sindikatat/>), (Last accessed October 10, 2024).

It is specifically highlighted that states have a duty to support and promote the development of collective agreements by establishing a legal and political framework conducive to social dialogue and cooperation between the parties involved.[43]

In this context, the Kosovo Law Institute (KLI) and the Center for Free Legal Aid (CFL) have been instrumental in defending the rights of teachers and healthcare workers who have been denied benefits such as jubilee salaries, daily allowances, and travel compensation

## **12. Entities covered by collective bargaining**

As detailed in previous chapters, collective bargaining is the process by which unions and employers negotiate to improve and expand working conditions beyond what is outlined in relevant laws. This process plays a crucial role in protecting workers' rights and establishing workplace relations. Through collective bargaining, key issues are discussed and finalized in agreements, covering aspects such as wages, working hours, conditions, benefits, and workers' rights.

One of the primary concerns in collective bargaining is salary. Unions strive to ensure workers receive fair compensation, negotiating for wage increases, overtime pay, and pay equity. In some cases, compensation may be linked to performance or specific outcomes defined during these negotiations.

Working hours are another core focus in collective agreements. These agreements define maximum weekly working hours, leave entitlements, and paid holiday rights. Unions frequently advocate for a healthy work-life balance, aiming to prevent unfairly extended hours without adequate compensation.

Working conditions, including safety and health standards, are also central. Employers are required to provide safe and healthy environments, and unions play an essential role in enforcing these standards. Through collective bargaining, workers can request protective equipment, safety training, and other measures to enhance workplace safety.

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[43] Venice Commission of the Council of Europe; CDL-PI(2022)029; "Compilation of Venice Commission's Opinions and Reports Concerning Freedom of Association"; (See: [https://www.venice.coe.int/ëebforms/documents/?pdf=CDL-PI\(2022\)029-e](https://www.venice.coe.int/ëebforms/documents/?pdf=CDL-PI(2022)029-e)), (Last accessed October 10, 2024).

Social benefits are another crucial component of collective bargaining, encompassing health insurance, pension plans, sick leave, and parental leave. These benefits are vital for workers' long-term security and well-being, contributing to higher satisfaction and productivity.

Employment stability is also a key area addressed in collective bargaining. Unions and employers negotiate protections against unfair dismissal and establish processes for grievances and dispute resolution, fostering a fair and stable work environment.

Some agreements also provide for employee representation on company boards or in strategic decision-making, increasing worker involvement in management and promoting a sense of responsibility and engagement.

In certain instances, collective bargaining addresses the impact of new technologies on the workplace. With technological advancements transforming work, unions advocate to ensure that these changes do not undermine workers' rights, seeking protections and training opportunities to support adaptation.

Additionally, collective agreements often include provisions to promote gender equality in pay and opportunities, such as gender-sensitive policies for parental leave, ensuring fair treatment for all workers.

### **13. Avoidance of discrimination and differentiation in the treatment of collective agreements**

As outlined in this paper, collective agreements serve as essential tools for safeguarding workers' rights, offering a structured platform for establishing working conditions and benefits linked to employment. A critical provision that should be included in these agreements is the right to jubilee pay—especially important in cases where a collective agreement is no longer in effect, yet employees reach the years of service that qualify them for this benefit. Addressing this ensures justice and equality in the workplace.

To clarify, jubilee pay is a recognition granted to employees for their longstanding commitment to an organization, typically awarded after 10, 20, 30, or more years of service. This benefit is not only financially valuable but also enhances motivation and fosters loyalty among employees. Challenges arise, however, when a worker reaches the qualifying milestone during a period without an active collective agreement.

When a worker reaches 30 years of service without an active collective agreement in place, their right to receive jubilee pay should be honored once a new collective agreement is signed. This ensures that every worker—regardless of the status of negotiations between the union and the employer—can claim their due rights. It would be unjust for employees to miss out on this benefit simply due to the absence of an agreement, as the responsibility for this lapse lies with the employer and union, not with the individual who has dedicated years of service to the company.

If this provision is not included in the collective contract, it creates an environment of discrimination and unequal treatment. Workers who have reached this milestone may feel excluded and disadvantaged compared to their peers who benefit under a new agreement. This not only disrupts the perception of fairness but also impacts worker morale, fostering an environment of insecurity and dissatisfaction in the workplace.

## **14. Budgeting Collective Contracts**

To balance employee rights with the government's financial stability, unions and the government engage in complex negotiations to address the financial impacts of collective bargaining agreements. These discussions, often involving extensive meetings, aim to secure fair working conditions and wages aligned with current economic conditions. Key topics include working hours, health and social benefits, and wage adjustments. Transparency and union involvement in shaping financial and economic policies—often through tripartite committees with business, labor unions, and government representatives—are crucial elements in these negotiations.

Social dialogue plays a critical role in achieving sustainable outcomes acceptable to all parties. Financial considerations for collective agreements are often negotiated following the "Nordic" model, popular in countries like Sweden and Denmark, which promotes collaboration between unions, the public sector, and the private sector. This model seeks to balance national economic stability with health, social benefits, and wage increases.

In Sweden, for instance, agreements between trade unions and employers are set for fixed terms and reviewed periodically under a regulated framework. This approach has helped Sweden balance economic competitiveness in a global market with improved working conditions. Similarly, in Denmark, collective agreements have established standards for wages, healthcare, and social support, upheld by a tax and resource allocation system.

In Switzerland, the federal and decentralized structure of collective agreements grants cantons significant authority over financial and economic policies. Collective bargaining in Switzerland often involves extended negotiations on minimum wages and benefits, tailored to reflect the cost-of-living variations across cantons.

To align wages with economic trends, Swiss public-sector agreements frequently include automatic wage adjustments tied to inflation indices and other economic factors. In Germany, "cooling-off" periods are commonly incorporated into negotiations to allow time for tension reduction between unions and employers before any strikes or union actions are initiated. This practice is particularly vital in critical sectors like public services, helping to maintain labor market stability.

Slovenia employs an integrated approach to collective bargaining, with the government and unions collaborating to negotiate social and economic conditions, including wage adjustments that reflect cost-of-living changes and inflation rates. Slovenian collective agreements feature clauses mandating regular wage and working condition reviews, thus supporting both employee purchasing power and economic growth. This unique mechanism promotes labor market stability and supports social cohesion, preventing major conflicts and fostering a secure framework for sustainable economic development.

## 15. Withdrawal from collective agreements

Collective agreements are crucial for safeguarding workers' rights and upholding social justice in countries with robust democratic systems and the rule of law. These nations typically have a well-defined legal framework and institutional structures that promote and facilitate collective bargaining, dispute resolution, and the management of potential conflicts between unions and employers. To preserve social harmony, prevent strikes, and avoid escalating disputes, various procedures are employed to address disagreements related to collective contracts.

Mediation and arbitration are the primary methods of conflict resolution in most democratic countries with established systems of social justice. These processes serve as preliminary tools to resolve disputes before judicial intervention becomes necessary. Through these methods, unions and employers often find mutually acceptable solutions without the need for court involvement.

**a. Mediation:** In the mediation process, an impartial third party helps employers and employees reach an agreement. Countries like Sweden and Germany frequently use mediation to prevent disputes from escalating, aiming to find mutually beneficial resolutions. Mediators, typically specialized professionals, ensure that the process remains fair and unbiased.

**a. Arbitration:** If mediation fails, the next step is arbitration. In the more formal arbitration process, one or more arbitrators listen to arguments from both parties and issue a legally binding decision to resolve the dispute. For instance, arbitration is frequently employed in the United Kingdom, especially in the public sector, to settle conflicts related to collective agreements.

**b. Labor Courts:** If mediation and arbitration do not resolve the issue, the parties may seek assistance from specialized labor courts. In countries like Germany and France, labor courts are dedicated institutions that handle disputes related to collective agreements, including matters concerning wages, benefits, working conditions, and time off.

**c. Conciliation:** Conciliation is another method used to resolve disputes. In this process, a third party formally acts as a mediator to assist the parties in reaching a resolution. This practice is commonly followed in France and several other European countries. By facilitating communication and discussion, the conciliation process helps the parties find a consensus, preventing strikes and other forms of conflict.

**1. The conditions under which collective agreements can be terminated**, including the ability of the parties to sever such agreements but only under specific restrictions and within the terms and legal framework outlined by the contract or legislation, are key elements of collective agreements in countries that uphold the rule of law.

**a. Termination deadlines and procedures:** Many countries, such as Germany and Switzerland, have well-defined policies regarding the termination or ending of collective agreements. This typically requires providing advance notice and adhering to specified termination deadlines. Prior to the contract's expiration, the parties may opt to renegotiate the agreement to reflect changes in employment conditions or financial circumstances.

**b. Review of contracts:** Review clauses are commonly included in collective agreements in countries like the United Kingdom and France. These clauses allow for adjustments based on changing circumstances or when a party believes the terms of the agreement are no longer adequate. In order to create a new agreement without fully terminating the contract, unions and employers must engage in communication throughout this process.

**2. In countries with well-established democracies, state institutions are often instrumental in resolving disputes concerning collective agreements.** For example, in France, the Ministry of Labor regularly intervenes to facilitate mediation or conciliation between the parties involved in order to reach a resolution. In rare instances, the government may also take action to avert major social or economic conflicts.



**a. Union protection and bargaining power:** Unions play a crucial role in safeguarding workers' rights and negotiating collective agreements in countries like Sweden and Switzerland. They are essential in upholding social justice and equality in the workplace and have significant influence in the resolution of disputes.

**b. Strikes and conflict resolution methods as a final option:** When mediation and arbitration fail, strikes are often employed as a last resort to resolve labor disputes in European countries. While typically regulated by law, strikes serve as a means for workers to exert pressure on employers and encourage the resumption of negotiations.

# Recommendations

- 1. Enhancing Cooperation with Trade Unions:** The Government of Kosovo should revisit its commitment to collaborating with trade unions, focusing on providing tangible support for union organization. Addressing existing criticisms and fostering a more supportive environment for unions will help rebuild trust and ensure the fulfillment of prior promises.
- 2. Establishing the Social Economic Council:** The Ministry of Finance, Labor, and Transfers should promptly announce the competition and establish the Social Economic Council. This will serve as a platform for effective dialogue among employers, workers, and the government, helping to alleviate social tensions and ensure that workers' voices are heard in decision-making processes.
- 3. Finalizing the General Collective Agreement:** The Government of Kosovo should prioritize the signing of the General Collective Agreement once the Economic and Social Council is established. This agreement would improve working conditions and enhance cooperation between all parties involved.
- 4. Signing Sectoral Collective Contracts:** The Ministry of Education, Science, Technology, and Innovation, the Ministry of Health, and other relevant institutions should actively engage with unions. Forming negotiation teams is crucial for reaching agreements on sector-specific collective contracts.
- 5. Strengthening Support for Trade Unions:** The government should increase its support for trade unions and their activities, including providing spaces for organizing events that promote workers' rights, thus reinforcing union structures.
- 6. Establishing Regular Dialogue with Unions:** Creating consistent communication channels with trade unions is vital to addressing workers' concerns. This will improve relations between parties and ensure that workers' needs and demands are considered in decision-making processes.
- 7. Ensuring Transparency:** The government should ensure transparency in decision-making processes by making information about decisions impacting workers easily accessible. This will help build trust and encourage worker participation in social dialogue.
- 8. Promoting Education on Workers' Rights:** Unions should offer educational programs that inform workers about their rights and the importance of union organization. These initiatives will raise awareness and empower workers to protect their rights in the workplace.
- 9. Adopting New Laws in the Social Sector:** Updating labor laws to align with current labor market realities and international standards, including those of the International Labour Organization and European Union Directives, is crucial. The government should proceed with the approval of key legislation, such as the Draft Law on the Labor Inspectorate and the Draft Law on Safety and Health at Work, to strengthen worker protections and prevent workplace abuses.
- 10. Increasing Parliamentary Oversight:** The Assembly of Kosovo should take an active role in safeguarding and advancing trade union rights. Relevant parliamentary committees should closely monitor the government's actions on union concerns and worker issues, promoting legislation that supports trade unions and fosters social dialogue to ensure workers' rights are upheld and developed.



The report titled "**Lack of Collective Contracts: Failure to Ensure Social Dialogue and Collective Protection of Workers**" was conducted by the Kosovo Law Institute with the support of the National Endowment for Democracy (NED).



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