

BARSERVICE

Towards smart bargaining in the Commerce sector in Serbia

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Executive summary

The country report presents general overview of commerce sector (wholesale and retail trade) in Serbia, including (NACE 45, 46 and 47). It presents most relevant labour market statistics, state of collective bargaining and its main challenges. Special attention is paid to the development of a novel and improved approach of Smart Bargaining adjusted to the specific characteristics and needs of commerce sector.

Commerce sector is the biggest sector in services taking into consideration both the number of employees and registered businesses. The sector is private, dominated by smaller local companies. However, a few international and regional wholesale and retail chains employing thousands of employees represent the biggest employers in this sector. Bargaining coverage is rather low. CBAs have been negotiated in about 70% of companies who established company trade unions affiliated with Autonomous Trade Union in Commerce. CBA coverage is estimated at around 10% of workers in commerce sector.

The report addresses specific challenges to collective bargaining in commerce sector, which are primarily related with the issues faced on the side of employers, including their low interest to associate and resistance toward unionization and collective bargaining. Therefore, smart collective bargaining in commerce is primarily focused on raising the awareness and interest for collective bargaining among employers. Smart Bargaining in commerce should lead to promotion of mutual interest, development of trust, frequent bargaining and flexible agreements allowing improvement of collective agreement contents over time, to include new issues particularly these stemming from technological development.

I. Sector identification and trends

Commerce sector in Serbia is the biggest sub-sector in services, accounting for 15.7% of total registered employment (CROSO, 2023)¹. According to CROSO, in 2023 registered employment in commerce (G - wholesale and retail trade) is 361,434 employees. Over the last decade, registered employment increased by more than 60,000 employees, yet its share in total employment decreased.² The highest employment is registered in NACE 47 - Retail trade, except of motor vehicles and motorcycles (210,983 employees and 9.15% of total employment), followed by NACE 46 - Wholesale trade, except of motor vehicles and motorcycles (118,833 employees and 5.15% of total employment) whereas NACE 45 accounts for smallest number as well as smallest share of employees in commerce (31,618 employees and 1.37% of total employment).

LFS data show slightly higher employment in wholesale and retail trade sector (NACE 45, 46 and 47) in 2023 (382,900 workers), and a smaller share in total employment (13.47%). Female workers account for 54.8% of total employment in this sector. Informal employment in services sector is generally lower than for the economy as a whole³, yet commerce is one of the sub-sectors with relatively higher informal employment rate. Available LFS data also show that the informal employment rate in wholesale and retail trade sector decreased to 5.6% in 2020, from 7.8% in 2013.

Wholesale and retail trade, including NACE 45, NACE 46 and NACE 47 is the single biggest sub-sector in services, taking also into consideration the share of registered business entities in total economy (32.1% in 2022).⁴ The total number of businesses in the sector was 65,284. Over the last decade, the most significant continual growth was evidenced in retail trade, except of motor vehicles and motorcycles (NACE 47) both regarding registered employment (from 146,380 in 2014 to 210,983 in 2022, CROSO) and the number of businesses (from 7,024 in 2014 to 34,189 in 2022 (SORS, 2023)). On the other hand, negative trend was recorded only for NACE 46, where registered employment decreased from

¹ Graph 1: Share of employment in services sector in 2014 and 2023 (CROSO, 15+), in Annex

² Table 1: Registered Employment in Commerce sector 2014-2023 in Annex

³ Graph 2: Informal employment rate for economy and for Service sector in Annex

⁴ Graph 3: Share of Service and top 3 subsectors in total number of business in Annex

121,605 in 2014 to 118,883 in 2022 (CROSO), and the number of businesses decreased from 23,063 in 2014 to 21,676 in 2022 (SORS, 2023).

Commerce sector in Serbia encompasses private, mostly small size local businesses, particularly in NACE 45 and NACE 47. Yet the highest turnover (21,32% in 2022 (SORS, 2023)) and value added (10.39% in 2022 (SORS, 2023)) was evidenced in NACE 46, dominated by big local and international wholesale chains. Apart from it, a number of big local and international retail chains have also been present on Serbian market, employing thousands of workers and substantially contributing to turnover and value added.

Technological developments (i.e. automatization and digitalization) along with changing customer behaviour (e.g. increasing interest in online shopping, increasing price-sensitiveness, etc) and current economic challenges (raising inflation and decreasing purchasing power) have been reported to bring radical changes concerning business processes in commerce and employment in most developed countries globally and in the EU.⁵ However, apart from generally low purchasing power, changes stemming from digitalization and automation are still not regarded particularly relevant in Serbian context. In particular, though new technologies (automated processes, digital services, including scanners, self-service check points, online shopping, home delivery, digital assistance, apps and similar) have been implemented by big wholesale and retail companies, this has still not significantly reflected on employment and labour market skill needs in commerce sector in general. Moreover, shortage of workers remains the main problem faced by local businesses in Serbia. While finding workers in commerce is easier for big chains operating in the cities of Belgrade, Nis and Novi Sad, shortage in labour market supply coupled with comparatively lower salaries (30% below national average) and unfavourable working conditions severely restrict potential for growth among smaller local businesses operating in less developed parts of the country, as recruitment of new workers and retention of employees remains the main problem for local employers.⁶

⁵ EU Project Open for Business, Future employment challenges in commerce, available at: <https://www.sindikatr.govine.rs/>

⁶ Personal statement from an interview with a stakeholder from commercial sector

II. Current state of collective bargaining

Collective bargaining in commerce sector in Serbia is fully decentralized. "In private sector in general, collective bargaining at company level is predominant, and the same holds true for commerce."⁷

On sectoral level, there is one representative trade union in commerce (Autonomous Trade Union in Commerce, srb. Samostalni sindikat trgovine), which is affiliate member of Confederation of Autonomous Trade Unions of Serbia. However, there is no sectoral level collective bargaining in commerce sector and the reason for that is on the side of employers. Serbian Association of Employers (SAE), although nationally representative, as in many other sectors of the economy dominated by private businesses, does not fulfil the representativity criteria, which require that an employer organization covers at least 10% of all registered employers in the sector, and that these employers employ at least 15% of the total number of employees in the sector. SAE members still do not include most of the biggest wholesale and retail chains.

On the other hand, several wholesale and retail chains owned by big multinationals as well as regional market players, such as Metro Cash and Carry, Delhaize, Lidl and Merkator S have trade unions at company level affiliated with Autonomous Trade Union in Commerce. The listed companies' trade unions represent considerable part of total membership, as these are the largest companies in commerce on Serbian market, employing about 24,000 employees in total. The single biggest is Delhaize (owned by Ahold Delhaize the Netherlands) with more than 11,000 employees, followed by Merkator S (owned by Fortenova Group Croatia) employing more than 8,000 workers. In each of the two companies, employees are covered with CBAs which resulted from collective bargaining at company level.

Metro Cash and Carry (owned by Metro AG Germany) and Lidl (owned by Lidl Stiftung & Co, part of Schwarz Group Germany) employ around 1,200 and 3,500 workers respectively. Generally, German companies in Serbia are considered as

⁷ Personal statement from an interview with a stakeholder from commercial sector

positive examples of unionization and collective bargaining.⁸ However, in contrast to Metro Cash and Carry in Serbia where negotiated company CBA is applicable to all employees, trade union in Lidl has been established only recently and is still not in position to start collective bargaining. Being a part of the big international system, Lidl promotes acquired corporate values, including efficiency, honesty, security and wholeheartedness, to assure task oriented, inclusive, agreeable, and pleasant working environment as well as job security.⁹ Additionally, Lidl Sustainability report for 2021/2022, claims that obtained remarkable certificates Top Employer Serbia and Top Employer Europe resulted from the companies' achievements in human resource development. However, the report also claims that workers' rights are protected in accordance with the Labour Law¹⁰, Company Labour Rulebook and Individual contracts, with no mentions of any activities directed toward collective bargaining and signing a CBA.

According to data obtained from the Autonomous Trade Union in Commerce, at company level CBAs are signed in around 70% of the companies in which this sectoral trade union has its company affiliates. It is estimated that around 10% of employees in commerce sector are covered by CBAs.

Over the last decade, no major changes occurred regarding collective bargaining, including main actors, transfer of negotiation power, and bargaining mechanisms. As collective bargaining in commerce is decentralized the company trade unions and employers have remained the main actors. Among other important actors,

⁸ Interviewed stakeholders share a general opinion that trade unions in Serbia are mainly present and strongest in either former socially owned companies with longer tradition of unionization and collective bargaining as well as divisions of German companies in Serbia. Findings from the two company case studies presented in policy report on Serbia published as part of EU co-funded BARMETAL Project, Project No. 101052331 also show that trade unions' strong position in collective bargaining in metal sector resulted either from a long tradition of unionization in a formerly socially owned company or support received from peer workers (workers councils) and managers from head-office in Germany, according to: Ognjanov, G., Arandarenko, M., Aleksic, D. (2024) Digitalization, Automatization and Decarbonization: Opportunity for Strengthening Collective Bargaining in the Metal Sector, available at: https://celsi.sk/media/datasource/BARMETAL_country_report_Serbia_URDw6LN.pdf

⁹ Izvestaj o održivosti, Lidl Srbija 2021/2022 <https://kompanija.lidl.rs/odrzivost-u-lidlu/publikacije/izvestaji-o-odrzivosti-lidl-srbija>

¹⁰ Labour Law, Official Gazette of RS, Nos. 24/2005, 61/2005, 54/2009, 32/2013, 75/2014, 13/2017-Decision of the CC, 113/2017 and 95/2018 - authentic interpretation

Autonomous Trade Union in Commerce as sectoral trade union provides support to its members in company collective bargaining, eventual dispute resolution (along with the Agency for peaceful settlement of labour disputes¹¹) as well as in regard with the process of establishment of company trade unions. The bargaining power in private sector remains on the side of employers, which is considerably supported by the Government, through issued regulatory and strategic framework as well as institutions such as for example Serbian Chamber of Commerce.¹² Trade union representatives generally find the new Labour Law from 2014 more favourable for employers, thus additionally limiting potential for collective bargaining at either company or sectoral levels. It allows employers to provide benefits and protect workers' rights at minimum granted by the Law, even by transferring legal provisions directly in CBAs, and thus questioning the essence of collective bargaining.

III. Challenges to collective bargaining

In commerce sector, the main challenges to collective bargaining are on the side of employers. Low interest of employers for collective bargaining stems from their stronger negotiation position allowed by the Labour Law. In addition, various protection mechanisms granted by the Government and its institutions, particularly in regard to big foreign investors, i.e. international wholesale and retail chains, favour the position of employers, thus adding to their general hostility toward trade unions and bargaining. On the side of employers, another challenge is that many of them are still not interested to associate in existing organizations nor establish new ones.

Employers in commerce sector express quite a low interest in collective bargaining. Salaries in this sector are rather low, often adjusted to the minimal wage negotiated on national level.¹³ In accordance with the Labour Law, when a CBA is not negotiated, the company is obliged to issue the Labour Rulebook, which regulates standards of work, workers' rights and other important work related issues. However, such Labour Rulebooks may be changed at any time to meet the interest of the employer. Even where CBA exists, employers may use various

¹¹ <https://www.ramrrs.gov.rs/en>

¹² Interview with a stakeholder from commercial sector

¹³ Interview with a stakeholder from commercial sector

mechanisms to avoid its provisions. Namely, in 2022 Delhaize Serbia issued a new systematisation of jobs, allowing employment of workers with lower qualifications and opening space for further reductions of salaries, which was publicly criticized by trade unions.¹⁴ The company however issued a denial¹⁵, after one of the trade unions called for boycotting its stores.

Employers' hostile attitude towards unions and/or bargaining is also seen as one of the main challenges to collective bargaining, as evidenced in the case of Lidl Srbija.¹⁶ Namely, after the trade union was established at company level, the employer asked for the list of members, questioning its representativeness¹⁷ which could also be understood as a form of pressure against unionization and even an "act of mobbing of its members".¹⁸

As previously noted, most of employers in commerce sector, particularly big wholesale and retail chains are not associated in SEA which results in the absence of the eligible partner for collective bargaining at sectoral level. In line with it, its applicability is limited by generally low interest of employers to associate. Moreover, the lack of legal support for sectoral and multi-employer bargaining is also viewed as an important challenge to collective bargaining.¹⁹

In addition, there are also challenges to collective bargaining resulting from small union presence, small membership, union fragmentation and union busting.

Due to low interest for unionization, trade union membership has been decreasing in the economy in general as well as in commerce sector. Small and decreasing membership along with frequent fragmentation of unions on company

¹⁴ Asocijacija sindikata: Zaposleni u kompaniji Deleze degradirani aneksima, 4.1.2022. (Aleksandra Petrovic), Nova.rs, available at: <https://nova.rs/vesti/drustvo/asocijacija-sindikata-zaposleni-u-kompaniji-deleze-degradirani-aneksima/>

¹⁵ Delez odgovorio sindikatima posle sramnog smanjenja plata kasirkama u Maksiju, 3.1.2022., (Aleksandra Petrovic), Nova.rs, available at: <https://nova.rs/vesti/biznis/delez-odgovorio-sindikatima-posle-sramnog-smanjenja-plata-kasirkama-u-maksiju/>

¹⁶ Interview with a stakeholder from commercial sector

¹⁷ In accordance with the Labour Law, to be representative and thus eligible to participate in collective bargaining a trade union must membership accounting for the minimum of 15% of employees of a company.

¹⁸ Personal statement from an interview with a stakeholder from commercial sector

¹⁹ Personal statement from an interview with a stakeholder from commercial sector

level additionally deteriorates already weak bargaining power of existing trade unions. “Union busting is also very much present, even the attempts to ban unionization in some companies.”²⁰ As unionization of workers is granted by the Constitution and its violation punishable the Criminal Law, “such practices in companies are rather subtle and well hidden”.²¹

Apart from it, labour market deregulation and flexibilization of work arrangements brought new challenges in regard to work relations and collective bargaining. Flexibilization of work has opened space for a more inclusive labour market. For female workers, young and those belonging to other vulnerable groups with atypical work contracts (occasional work, reduced working hours, employment agencies) may be better adjusted to their needs thus allowing them to combine business activities with private life. However, though adjusted to better address social changes and labour market needs, atypical work contracts also raised a concern of growing precarization of workers. While atypical work contracts and precarious work are two separate concepts, atypical work contract may result in pronounced inequality among workers' regarding their individual and collective rights even when engaged by the same company. For example, employees engaged through a job agency are considered third party employees. Moreover, atypical work arrangements typically do not provide a formal status of an employee and thus, in accordance with the Law, workers are not entitled to collective bargaining and unionization. This particularly affects vulnerable groups (e.g. Roma, young employees and migrants) who are typically not covered by CBAs. On the other hand, gender segregation is not seen an important challenge to collective bargaining, as female workers are dominant in commerce sector.

IV. Towards Smart Bargaining

Smart bargaining in commerce sector is primarily related with activities directed at raising employers' interest to participate in collective bargaining. In line with it, in the first phase a wider promotion of collective bargaining on sectoral level, as well as among various relevant actors (including relevant governmental bodies and institutions but also civil society organizations) through media, social dialogue and events is needed. Among other things, the campaign should be directed at

²⁰ Personal statement from an interview with a stakeholder from commercial sector

²¹ Personal statement from an interview with a stakeholder from commercial sector

breaking public prejudices and private sector strong resistance to unionization of workers and collective bargaining. However, it still doesn't mean over-regulation, as collective bargaining should primarily be regulated among the interested parties rather than imposed by legal acts.

In general, as well as in commerce, smart bargaining is based on understanding specific interests of the two parties. Therefore, trade unions as initiators of collective bargaining must find the best approach while convincing the employers that it is in their best interests to take part in the process potentially leading to signing a CBA. It assumes development of an adequate negotiation strategy and tactics to be implemented in the pre-negotiations phase, resulting in agreement between the parties to start collective bargaining. While trade union negotiation teams may be skillful and competent to negotiate on CBA contents, smart bargaining in commerce sector must include skills development for the so-called "bargaining over future collective bargaining".

On the sectoral level, smart bargaining means focusing on convincing employers to associate in existing employer organizations and/or establish the new ones. Again, interest-based approach remains the best, and thus trade union negotiators need to think about "what would be an interest of employers to sign a sectoral collective agreement".²² Sectoral CBA is believed to allow fair competition on the labour market in regard to defined salary levels for specific posts as well as guaranteed working and rest hours.

On the other hand, company CBAs are more detailed, providing additional and extended benefits in comparison with these granted by the Law and sectoral CBA. Bargaining is believed to be the best way to regulate working conditions. Smart bargaining assumes frequent consultations and flexibility in changing the content of agreed CBAs. Wider promotion of bargaining culture and raising awareness that negotiations are the most effective way of dealing with opposing interests and problem solving make an important step in smart bargaining. However, development of mutual trust among the parties as well as a strong belief that negotiations would lead to an agreement at mutual benefits of the two parties (win-win solution) remain the corner stone of smart negotiations in commerce.

²² Personal statement from an interview with a stakeholder from commercial sector

V. European Perspectives

EU perspectives are shared through various projects, and that is highly relevant for improvement of position of trade unions. Autonomous Trade Union in Commerce collaborates with trade unions in several EU countries, which is highly relevant in terms of share of experience and transfer of knowledge.

The Minimum wage in Serbia is defined on the national level annually, resulting from the social dialogue organized through Socio-Economic Council (SES), a tripartite body involving representatives of the Government of Serbia, representative trade unions as well as representative employers' organization. However, the minimum wage in Serbian context does not represent the living wage as the new concept adopted in the EU. According to the Labour Law, minimum wage is mandatory for all employers in a short period of time (6 months) in which they may face business related problems. Extension is allowed yet the employer should inform the company trade union on the underlying reasons. However, there is strong evidence that the legally defined time limit is not being met in practice and that employers are extending the duration of the minimum wage without consulting the trade unions²³. The minimal wage is also applicable as a guaranteed wage for the simplest jobs in commerce sector.

VI. Conclusions

Collective bargaining in commerce sector is company related. At present, due to low interest of employers to associate in representative employers' associations there are no possibilities for collective bargaining on sectoral level despite the interest of the existing representative trade union on sectoral level.

In line with it, smart bargaining in commerce sector primarily focus on employers, raising their motivation to associate and participate in collective bargaining both on sectoral and company levels. Based on several examples, as well as discussions with stakeholders interested in the field and/or obtaining deeper insight in this particular sector, smart bargaining needs to increase interest among employers to participate in collective bargaining. This calls for organization of additional

²³ Bradaš, S. (2021), "Minimalna zarada u Srbiji", Fondacija centra za demokratiju.

trainings of negotiation teams to develop skills for pre-negotiations, in addition to their already acquired negotiation skills and competences.

Smart bargaining in commerce sectors is directed at development of trust among the two parties, and convincing employers that it is in their best interest to negotiate frequently and change CBAs content in line with envisaged changes in technology and social environment. Once it is promoted on company level, a wider promotional campaign through media and various stakeholders may call for initiation of sectoral collective bargaining thus contributing to fair competition in the light of tightening labour market.

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Annex

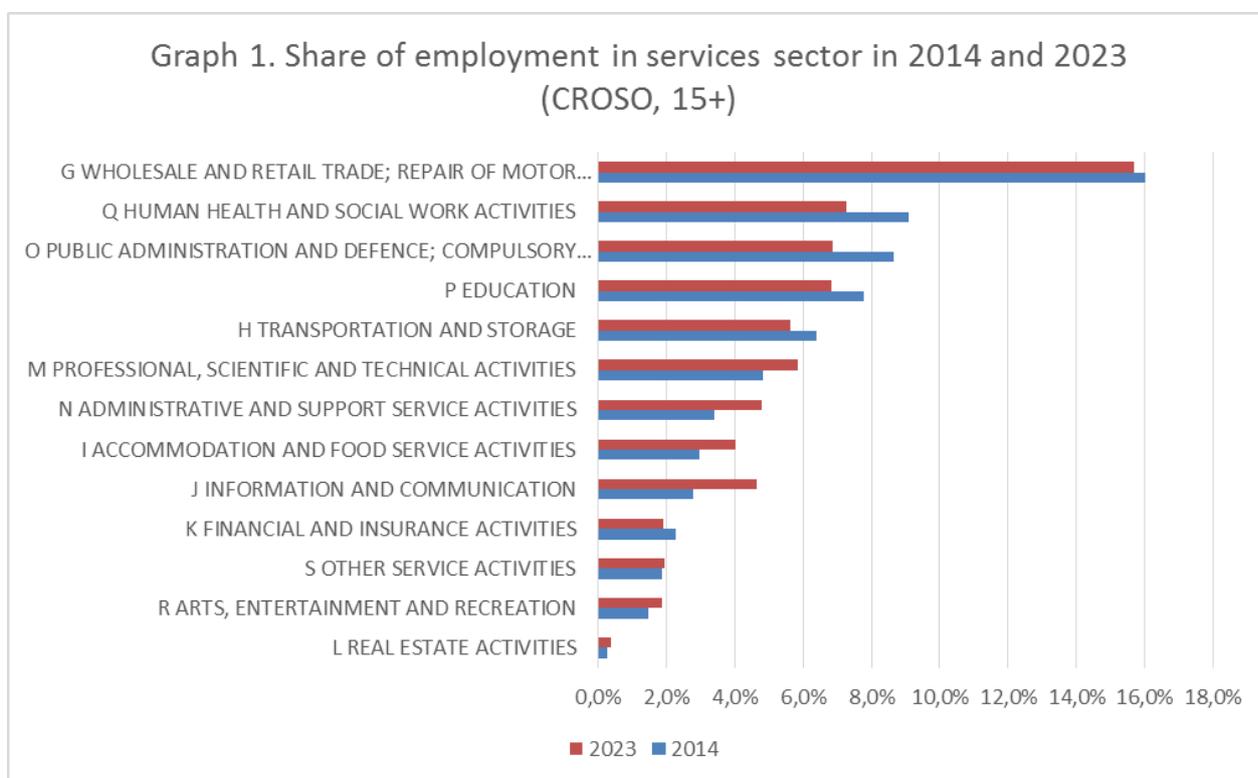
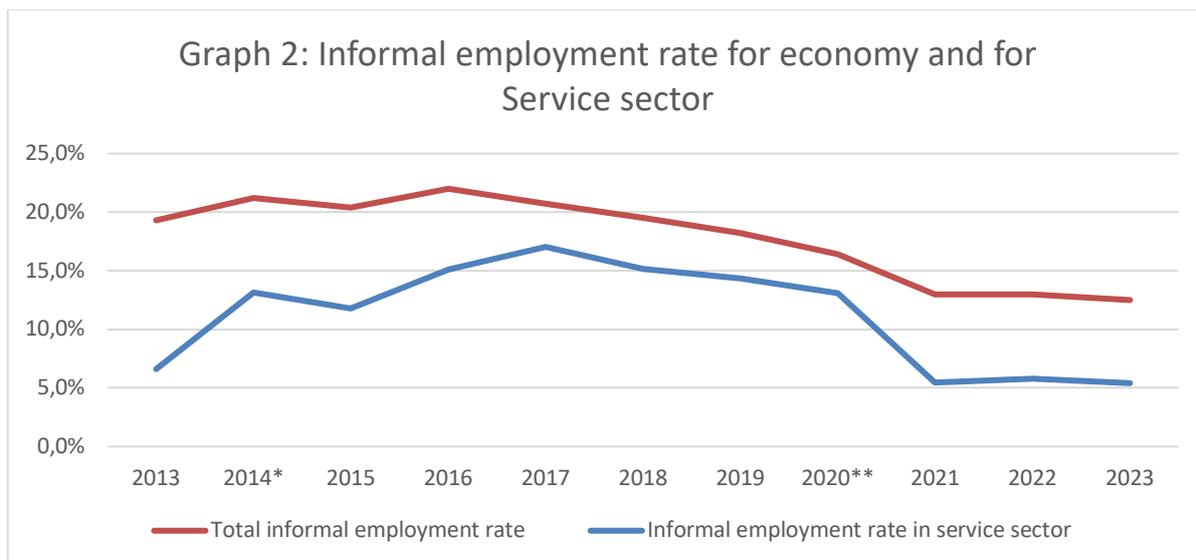


Table 1: Registered Employment in Commerce sector 2014-2023

Commerce (G)	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Registered employment	295293	315003	324603	332725	339150	342569	348027	359505	360206	361434
Share in total employment	16.0%	16.6%	16.9%	16.8%	16.5%	16.3%	16.2%	16.2%	16.0%	15.7%



* ** Change in methodology

