

BARSERVICE

Towards smart bargaining in the commerce sector in Turkey

Authors: Prof. Dr. Özlem ÇAKIR
Prof. Dr. Barış SEÇER
Assist. Prof. Dilek ESER
Assoc. Prof. Ceyhun GÜLER
Assist. Prof. Mehmet Ozan ÖZDEMİR
Rsrch. Assoc. Gizem Nur HAMAMCIOĞLU



The project is funded by the European union, project No. 101126532

2024

Table of contents

Executive summary	1
I. Sector identification and trends.....	2
II. Current state of collective bargaining	3
III. Challenges to collective bargaining	4
IV. Towards Smart Bargaining	6
V. European Perspectives.....	9
VI. Conclusions.....	9
References.....	10

Executive summary

This report evaluates the current state of the commerce sector in Türkiye, the collective bargaining processes of its workers, the challenges encountered, and the proposed solutions developed within the framework of a smart bargaining approach. The report examines the structure of the Commerce, Office, Education, and Fine Arts sector, which includes various industries and worker groups. It addresses the functioning of collective bargaining mechanisms, the issues faced, and proposed solutions.

The unionization rates and the scope of CBAs in the sector have been assessed, highlighting that both unionization and CBA coverage remain significantly limited. The challenges in Türkiye's collective bargaining processes, stemming from legal and institutional barriers under Act. No. 6356 and issues arising in practice, have been discussed, along with their implications for collective bargaining processes in the sector.

To address existing challenges, the report emphasizes the need for an innovative and sustainable collective bargaining approach tailored to the changing needs of workers, based on economic and social indicators, within the framework of the smart bargaining approach. The protection of workers' economic and social rights and the strengthening of the collective bargaining process in the sector are aimed at within the scope of smart bargaining and international regulations. This analysis seeks to provide a guiding framework for stakeholders in the sector.

I. Sector identification and trends

The commerce services sector, encompassing wholesale trade, retail trade, and the wholesale and retail trade and repair of motor vehicles and motorcycles, is one of Turkey's primary economic activities due to its substantial scale. In 2023, commerce services accounted for 13.9% of Türkiye's GDP, with a total nominal value of 3,677,995,900 TL, making it the second most significant sector in the economy (TURKSTAT, 2024a). The sector provides employment for approximately 15% of the total registered workforce in Türkiye. According to SGK (Social Security Institution) data, 623,808 enterprises employed 2,514,033 people in the trade services sector in 2023. Among these employees, 1,514,233 were men, and 999,800 were women (SGK, 2023). TURKSTAT data reports a total of 3,297,488 waged employees in the sector (TURKSTAT, 2024b), indicating that informal employment remains one of the sector's most pressing issues.

In Türkiye, commerce services employees are organized under the Commerce, Office, Education, and Fine Arts sector. This broad sector encompasses diverse sub-industries, each with its unique challenges. It includes commerce, retail, call centers, office services, private educational institutions, and fine arts. The sector's diversity necessitates addressing specific challenges with sub-sectoral distinctions.

Employees in the commerce and office sector typically include sales representatives, call center workers, and office staff. The majority of these employees are young, with a significant proportion being women. They face challenges such as low wages, long working hours, and precarious employment conditions. Workplace violence and harassment, both physical and psychological, are significant concerns, particularly in call centers and retail sales environments. In the education sector, workers include teachers, administrative staff, and support personnel in public and private institutions. There is a substantial wage disparity between teachers in the public and private sectors. While public-sector teachers generally enjoy better economic and social rights, private-sector teachers often face low wages and job insecurity. Unionization rates are relatively high among public-sector teachers but significantly lower in the private sector. Limited public-sector hiring quotas increase the number of unemployed teachers, forcing many to seek employment in the private sector.

The fine arts sector employs artists, stage technicians, costume designers, set workers, and cultural arts managers. A significant portion of these workers are

employed on a freelance or project basis. Many in this sector work without social security, in short-term positions, and face income and employment insecurity.

Despite its significant role in Türkiye's labor market, the Commerce, Office, Education, and Fine Arts sector is characterized by inadequate protection of workers' rights, insufficient improvements in working conditions, and low unionization rates. To address these challenges, essential measures include promoting unionization, enhancing collective bargaining processes, improving wage policies, and implementing legal and institutional reforms to regulate working conditions. These steps would contribute significantly to resolving the fundamental issues in this sector.

II. Current state of collective bargaining

When examining collective bargaining processes in the Commerce, Office, Education, and Fine Arts sector, it is evident that this sector ranks as the second most active in terms of CBAs in Türkiye. According to the 2023 Labor Statistics, a total of 257 collective agreements were signed in the sector, covering 15,664 workplaces. These workplaces employ a total of 238,384 workers, of whom 200,680 are trade union members, meaning approximately 85% of employees in workplaces covered by CBAs are unionized. The remaining 15% face the risk of being excluded from collective agreements but can often benefit from them by paying solidarity dues (MoLSS, 2023).

Despite being the second-most active sector in terms of CBAs, a significant portion of workers in the Commerce, Office, Education, and Fine Arts sector remains outside the scope of collective bargaining. As of January 2023, the total number of workers in the sector was 4,211,656, with only about 5% covered by CBAs. This indicates that a vast majority of workers in the sector are excluded from the collective bargaining process. Furthermore, the unionization rate in the sector is approximately 7%, according to 2023 data (MoLSS, 2023). This low unionization rate demonstrates that a significant proportion of the labor force in the sector lacks representation and access to collective bargaining mechanisms.

CBAs primarily regulate wages, working conditions, and workers' economic and social rights. However, their focus on workplace and enterprise-level agreements limits the establishment of broader labor standards across the sector and the comprehensive protection of workers' rights. The low unionization rate further highlights the limited reach of representation and collective bargaining mechanisms for the majority of workers in the sector. Therefore, developing

industry-wide solutions and support mechanisms to enhance unionization rates and the scope of collective agreements is essential.

According to the 2013 Labor Statistics, the Commerce, Office, Education, and Fine Arts sector employed 2,151,600 workers, with 91,752 of them being union members. This indicates a unionization rate of 4.6% in 2013. The number of workers covered by CBAs in the same year was 29,581, meaning only 1.4% of workers in the sector were included in collective agreements (MoLSS, 2013). When comparing the data from 2013 and 2023, it is evident that, despite the increase in the number of workers in the sector, the rise in unionization and collective bargaining coverage has been limited.

The right to strike is a critical tool used by workers to protect and improve their economic and social rights when collective bargaining processes result in disputes. According to 2023 data, there was only 1 workplace where a strike was applied in the sector, involving 36 workers (MoLSS, 2023). This demonstrates that strikes are rarely used as a means of action in dispute situations and highlights the weak bargaining power of workers against employers in the sector.

III. Challenges to collective bargaining

Collective bargaining processes in Türkiye are a critical mechanism for negotiating economic and social rights between workers and employers. However, various structural, legal, and practical challenges hinder these processes. The primary regulation governing collective bargaining in Türkiye is the Trade Unions and Collective Bargaining Agreement Act. No. 6356. However, this act contains provisions that create significant obstacles to the effective operation of collective bargaining mechanisms.

One such issue is the dual threshold system established by Act. No. 6356. Under this system, for a union to negotiate a collective agreement, it must exceed the 1% threshold in the sector and represent 50%+1 of the employees at the workplace. This dual threshold poses a significant barrier to trade unions gaining collective bargaining rights. Another challenge is the lengthy and complex process of obtaining authorization for collective bargaining. Employers often contest positive authorizations, leading to prolonged legal disputes that can delay collective bargaining processes and strain labor-employer relations.

Another significant issue is the restriction of the right to strike. In Türkiye, the right to strike, as outlined in Act. No. 6356, faces legal limitations and can effectively be

banned under the guise of "postponements." While the right to strike is limited, the mediation and judicial processes employed to resolve disputes in collective bargaining are often lengthy and costly, further diminishing workers' bargaining power. Employers typically have a stronger position in collective bargaining, making it more challenging for workers to safeguard their rights.

Unionization rates in Türkiye are relatively low compared to global averages. As of January 2023, the unionization rate in Türkiye was 14.42% (MoLSS, 2023). However, this rate is calculated based on workers registered with the social security system. When including informal workers, the actual unionization rate is estimated to be significantly lower. While unionization rates in OECD countries average between 16% and 20%, Scandinavian countries boast rates exceeding 50% (OECD, 2024). In this regard, Turkey lags behind many countries. The low unionization rate limits workers' participation in collective bargaining processes. Moreover, CBAs are often narrow in scope, primarily focusing on basic economic rights, which complicates the development of broader social rights. Additionally, anti-union practices, including dismissals and pressure to prevent unionization in some workplaces, weaken collective bargaining processes. This highlights the disconnect between the legal protections for trade union rights and their inadequate enforcement in practice.

Collective bargaining processes in Türkiye are also significantly influenced by the country's economic and labor market challenges. High inflation and economic volatility erode the real value of wages and benefits negotiated in collective agreements, undermining their protective function for workers' economic and social rights. Furthermore, the high prevalence of informal employment excludes a vast number of workers from collective bargaining processes.

In the Commerce, Office, Education, and Fine Arts sector, collective bargaining processes are shaped by the unique dynamics of this sector and the structural challenges in Türkiye's collective bargaining system. This sector encompasses a wide range of workers, including sales representatives in the trade sector, office workers, teachers in private education institutions, and workers in the fine arts field. While public employees dominate the education sector, private-sector employees are prominent in commerce and office sectors. Workers in the fine arts field are often project-based or independent.

Unionization rates in this sector are notably low. Significant differences exist among the sector's subfields, such as trade, education, and fine arts. This diversity complicates efforts to represent the common interests of workers and unify them in a single collective bargaining process. In particular, the project-based and

independent nature of many workers in the fine arts and education sectors excludes them from collective bargaining processes.

Unionization is nearly absent in the private sector, which limits collective bargaining processes for workers in this sector. Moreover, workers attempting to unionize in the private sector often face difficulties due to employers' reluctance to engage in collective bargaining and resistance to union activities, frequently leading to threats of dismissal. A significant portion of commerce and office workers are employed in low-wage, insecure jobs in the service sector, which complicates union organization. The 1% sectoral threshold and the requirement to organize 50%+1 of the workplace employees make it particularly challenging to gain collective bargaining rights, especially in large companies.

To address these challenges, it is imperative to amend Act. No. 6356. The dual threshold system should be abolished to facilitate broader participation in collective bargaining processes. The authorization processes for unions should be expedited, and objections should not be allowed to delay the collective bargaining process. The right to strike should be protected, and limitations and arbitrary postponements should be prevented. Resolution mechanisms for disputes should be made faster and more effective. These measures will help eliminate barriers to unionization and ensure the effective protection of trade union rights.

The challenges facing collective bargaining in Türkiye are closely tied to broader economic and labor market issues. Addressing economic instability and labor market challenges will contribute to more effective collective bargaining processes. Ensuring economic stability can enhance the effectiveness of collective agreements. Policies to combat informal employment should be implemented to ensure that a broader base of workers can benefit from union rights. Social dialogue mechanisms should be made more effective to enable unions to play a more active role in labor-employer relations, ensuring democratic representation and equal participation in decision-making processes.

IV. Towards Smart Bargaining

Smart Bargaining is a concept that represents innovative and collaborative approaches in collective bargaining processes based on economic and social indicators. Unlike traditional bargaining methods, it aims to produce more sustainable solutions that consider the long-term benefits of both workers and employers. This concept has gained increasing importance in the context of globalization, technological transformation, and rapid changes in labor markets.

Evaluating the applicability of the smart bargaining approach in Türkiye's collective bargaining processes is critical in light of the country's structural, legal, and social conditions. Türkiye's collective bargaining culture is generally conflict-driven and power-oriented, but collaborative approaches like smart bargaining have the potential to transform this dynamic.

In Türkiye, collective bargaining processes often lack sufficient data-driven negotiations. For example, wage negotiations frequently rely on bargaining power rather than economic indicators. Through the smart bargaining approach, workers and employers can use economic data (inflation rates, sectoral growth, profitability ratios) to make more realistic and sustainable decisions. Parties could seek support from universities to ground the negotiation processes on more scientific foundations.

Collective bargaining processes in Türkiye are typically built on a "winner-loser" dynamic, characterized by a lack of trust between workers and employers. The smart bargaining approach could enhance reconciliation by strengthening social dialogue mechanisms and establishing regular communication channels between parties. In sectoral-level bargaining, creative solutions could be devised to protect both employers' competitiveness and workers' welfare.

In Türkiye, collective bargaining processes often focus on traditional topics such as wage increases and benefits. Innovative issues—such as flexible working arrangements, vocational training, occupational health and safety, and gender equality—are not adequately addressed. With the smart bargaining approach, post-pandemic issues such as flexible working, remote work, digital transformation, and green transition could be included on the collective bargaining agenda. Innovative approaches, such as establishing training funds by employers to support workers' professional development, could be discussed.

Collective bargaining processes in Türkiye often prioritize short-term goals—such as annual wage increases—over long-term strategic planning. With the smart bargaining approach, long-term workforce planning could be conducted between employers and workers. For instance, vocational training programs could be planned to prevent job losses during digital transformation processes.

Türkiye's legal framework generally does not allow for flexible arrangements in collective agreements. Parties often adopt a rigid negotiation approach. With the smart bargaining approach, parties could develop flexible contract clauses that adapt quickly to economic crises or sectoral fluctuations. For example, models like staggered wage increases during economic downturns could be explored.

The Commerce, Office, Education, and Fine Arts sector in Türkiye encompasses a broad spectrum of worker profiles, working conditions, and sectoral dynamics. The smart bargaining approach has the potential to make existing collective bargaining processes in this sector more sustainable, flexible, and reconciliatory. In this sector, the commerce and office areas generally include retail employees, call center staff, office workers, and sales personnel. Employees often operate in the private sector and face low wages, long working hours, and insecure employment conditions. While the education field is predominantly public-sector-driven, private education institutions also employ teachers and other staff. Although collective bargaining processes for public employees are more structured, teachers in the private sector often face low wages, long working hours, and a risk of job insecurity. In the fine arts field, artists, stage workers, technicians, and other creative professionals are employed. Most workers in this field work independently or on a project basis, resulting in low unionization rates and exposure to income and job insecurity.

Through the smart bargaining approach, fairer collective bargaining demands could be created in this sector by analyzing the economic and social conditions of workers alongside economic data such as inflation, sectoral growth, and profitability ratios. For example, in the commerce and office sector, salary increases could be shaped not only by annual inflation but also by the sector's profitability status. Joint plans focusing not only on wages but also on vocational training, job security, and worker well-being could be established between workers and employers.

Innovative solutions could be introduced, such as extending contract durations for private school teachers to enhance job security or creating social security mechanisms to support artists in transitioning between projects. In the fine arts field, the establishment of social security and income support funds for freelance workers could reduce insecurity. Flexible and tailored collective agreements could be developed for different subfields of the sector, such as call centers, private education institutions, or theaters.

The smart bargaining approach in the Commerce, Office, Education, and Fine Arts sector can provide innovative and long-term solutions to sectoral issues, enhancing the welfare of workers. However, for this approach to succeed, it is essential to establish strong social dialogue mechanisms that build trust among parties and enhance the capacity of trade unions. Particularly, flexible collective agreement models that account for economic and sectoral differences could enable the effective implementation of the smart bargaining approach in this sector.

V. European Perspectives

The European Commission's Adequate Minimum Wage Directive aims to establish a fair minimum wage system in EU member states. This directive specifically seeks to improve workers' living standards, reduce income inequality, and strengthen social protection. Although Türkiye is not an EU member, this directive serves as a significant guide for labor market regulations and collective bargaining practices in Türkiye. The EU Adequate Minimum Wage Directive and the efforts of social partners at the EU level provide a critical framework for advancing collective bargaining and implementing the smart bargaining approach in Türkiye.

Trade unions in Türkiye can take significant steps to enhance their bargaining power and advocate for the establishment of regulations that ensure decent working and living conditions for workers by considering international regulations such as the Adequate Minimum Wage Directive and Global Framework Agreements (GFA). Similarly, in the Commerce, Office, Education, and Fine Arts sector, trade unions such as KOOP-İŞ, TEZ-KOOP-İŞ, and ÖZ BÜRO İŞ, which can surpass the 1% industry threshold required to gain collective bargaining authority, can benefit from these regulations and partnerships. These efforts will serve as a guide to ensuring that wages in the sector are determined in line with the principles of fairness and equality.

VI. Conclusions

The Commerce, Office, Education, and Fine Arts sector in Türkiye encompasses workplaces and workers engaged in commerce, office services, education, and fine arts. This sector includes a wide range of workers employed in various industries. However, the unique dynamics of the sector bring significant challenges to developing a holistic approach tailored to its needs.

Trade unions operating in this sector play a crucial role in protecting workers' rights and improving working conditions. However, due to the diverse nature of jobs covered by the sector, it remains fragmented, disorganized, and largely unorganized. Despite the presence of numerous trade unions within the sector, their ability to address the issues faced by all workers comprehensively and effectively is highly limited. This situation has led to demands for new regulations to address the sector's fragmented and disorganized structure, which hinders workers' organization efforts.

Under the current collective bargaining system, collective agreements conducted at the workplace and enterprise levels remain limited in scope, preventing the establishment of common standards at the sectoral level. This limitation further narrows the scope of collective agreements in the fragmented and disorganized structure of the Commerce, Office, Education, and Fine Arts sector. Issues such as low wages, long working hours, and flexible and insecure employment conditions in the sector necessitate innovative solutions through collective bargaining mechanisms.

The European Commission's Adequate Minimum Wage Directive, global framework agreements, and the smart bargaining approach serve as significant guides for trade unions in Türkiye. International regulations provide trade unions in Türkiye with a roadmap to strengthen their bargaining power and implement measures that ensure decent working and living conditions for workers. The smart bargaining approach, on the other hand, plays a vital role in incorporating topics such as gender equality, work-life balance, digitalization, and green transformation into collective agreements, addressing the evolving needs of workers.

References

ÇSGB, (2024), Çalışma Hayatı İstatistikleri 2023, <https://www.cs.gb.gov.tr/media/95434/2023-kitap.pdf> (19.12.2024)

ÇSGB, (2013), Çalışma Hayatı İstatistikleri 2013, https://www.cs.gb.gov.tr/media/1295/calisma_hayati_2013.pdf (19.12.2024)

OECD, (2024), Trade union density 2000-2020, <https://data-explorer.oecd.org/> (19.12.2024)

SGK, (2023). Sosyal Güvenlik Kurumu İstatistik Yıllığı Sigortalı ve İşyeri İstatistikleri, 2023, <https://www.sgk.gov.tr/Istatistik/Yillik/fcd5e59b-6af9-4d90-a451-ee7500eb1cb4> (19.12.2024)

TURKSTAT, (2024a). Yıllık Gayrisafi Yurt İçi Hasıla, 2023, <https://data.tuik.gov.tr/Bulten/Index?p=Yillik-Gayrisafi-Yurt-Ici-Hasila-2023-53450> (19.12.2024)

TURKSTAT, (2024b). Ücretli Çalışan İstatistikleri (Ticaret-Hizmet) 2009-2024, <https://data.tuik.gov.tr/Kategori/GetKategori?p=Istihdam,-Issizlik-ve-Ucret-108> (19.12.2024)