



International
Labour
Organization

Report on the rapid assessment survey

▶ **The response of labour
dispute resolution mechanisms
to the COVID-19 pandemic**



Report on rapid assessment survey

▶ **The response of labour
dispute resolution mechanisms
to the COVID-19 pandemic**

Copyright © International Labour Organization 2021
First published 2021

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publishing (Rights and Licensing), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: rights@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with a reproduction rights organization may make copies in accordance with the licences issued to them for this purpose. Visit www.ifrro.org to find the reproduction rights organization in your country.

Report on rapid assessment survey: The response of labour dispute resolution mechanisms to the COVID-19 Pandemic
International Labour Organization – ILO, 2021

ISBN 978-92-2-035940-2 (print)

ISBN 978-92-2-035941-9 (web PDF)

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

Information on ILO publications and digital products can be found at: www.ilo.org/publns.

Produced by the Document and Publications Production,
Printing and Distribution Unit (PRODOC) of the ILO.

*Graphic and typographic design, layout and composition,
printing, electronic publishing and distribution.*

PRODOC endeavours to use paper sourced from forests managed
in an environmentally sustainable and socially responsible manner.

Code: SCR-REP

► Contents

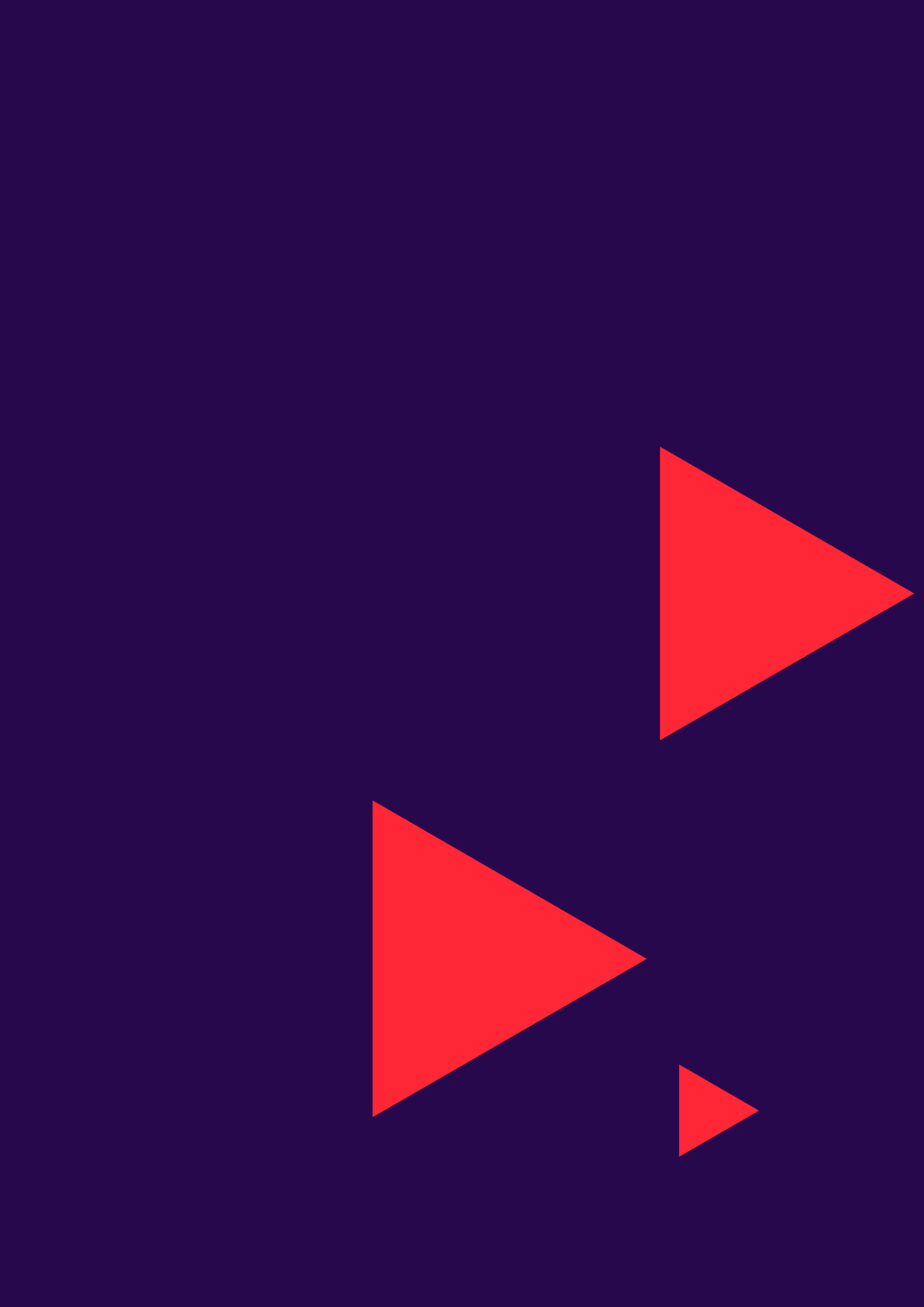
Acknowledgments	vii
Executive Summary	ix
Introduction	xi
Methodology	xiii
The response of labour dispute resolution institutions	1
Geographical Coverage	1
Types of respondents	2
Structure of Labour Dispute Resolution Institutions	2
Physical operation of labour dispute resolution institutions during the pandemic	2
Changes in the composition and distribution of labour dispute resolution institutions	3
Labour disputes distribution during the COVID-19 pandemic	9
Volume of individual labour cases in non-judicial labour dispute resolution institutions	9
Volume of collective labour cases in non-judicial labour dispute resolution institutions	10
Volume of individual labour cases in judicial labour dispute resolution institutions	11
Volume of collective labour cases in judicial labour dispute resolution institutions	12
Impact on procedures	16
Technological improvements of procedures	16
Changes on procedural rules	19
Practice and operation	25
Preliminary injunctions	25
Enforcement of decisions	26
Additional strategies to deal with COVID-19 related cases in judicial institutions	27
Final considerations	31
References	35

Figures

1 Regions (by percentage of respondent institutions)	1
2 Countries covered by respondent institutions	1
3 Types of respondents	2
4 Opening and closure of labour dispute resolution institutions during COVID-19	3
5 Changes in personnel during the pandemic	4
6 Changes in the number of facilities available to the public	4
7 Volume of individual cases in non-judicial institutions	9
8 Volume of collective cases in non-judicial institutions	10
9 Volume of individual cases in judicial institutions	11
10 Volume of collective cases in judicial institutions	12
11 Technological improvements applied to management of labour claims	17
12 Obstacles for applying technological improvements	18
13 Hearings happening during the pandemic	19
14 New procedural rules to deal with Covid-19 related claims	20
15 New rules of evidence and burden of proof	20
16 New rules for legal aid	21
17 Increase in volume of preliminary injunctions	26
18 Changes in enforcement procedures	27
19 Additional measures to deal with Covid-19 related claims in judicial institutions	27

Box

1. Highlights on structure of labour dispute resolution institutions in Africa during the pandemic	5
2. Highlights on structure of labour dispute resolution institutions in Arab States during the pandemic	5
3 Highlights on structure of labour dispute resolution institutions in Americas during the pandemic	6
4 Highlights on structure of labour dispute resolution institutions in Asia & Pacific during the pandemic	7
5 Highlights on structure of labour dispute resolution institutions in Europe & Central Asia during the pandemic	8
6 Highlights on volume of labour disputes in Africa during the pandemic	13
7 Highlights on volume of labour disputes in Arab States during the pandemic	13
8 Highlights on volume of labour disputes in Americas during the pandemic	14
9 Highlights on volume of labour disputes in Asia & Pacific during the pandemic	15
10 Highlights on volume of labour disputes in Europe & Central Asia during the pandemic	16
11 Highlights on impact on procedures in Africa during the pandemic	22
12 Highlights on impact on procedures in Arab States during the pandemic	23
13 Highlights on impact on procedures in Americas during the pandemic	23
14 Highlights on impact on procedures of labour disputes in Asia & Pacific during the pandemic	24
15 Highlights on impact on procedures of labour disputes in Europe & Central Asia during the pandemic	25
16 Highlights on impact on practice and operation of labour disputes in Africa during the pandemic	26
17 Highlights on impact on practice and operation of labour disputes in Americas during the pandemic	26



► Acknowledgements

This report was prepared by the Labour Law and Reform Unit (LABOURLAW) of the Governance and Tripartism Department (GOVERNANCE) of the ILO, based on the results of a Survey administered online between June and August 2021. The Survey was designed and administered by Maria Carolina Martins da Costa, Pablo Arellano and Colin Fenwick. The report was prepared based on the results of the Survey and further details provided by its respondents. Much appreciation goes to the many ILO colleagues both in headquarters and in the field offices who have contributed to design and content of the Survey or supported the mapping and contacting of labour dispute institutions in Members States. In alphabetical order we would like to specially thank Joaquin Alonso, Faustin Ekoue Amoussou, Sévane Ananian, David Andrevon, Yukiko Arai, Abdul Azad, Rosa Benyounes, Fabio Bertranou, Rania Bikhazi, Italo Cardona, Ruchira Chandra, Jajoon Coue, Aram Cunego, Mady Diagne, Siska Dubbert, Thaïs Dumêt Faria, Minawa Ebisui, Elizabeth Echeverria Manrique, Miranda Fajerman, Fernando Garcia, Elena Gerasimova, Yashar Hamzayev, Nune Hovhannisyan, Arun Kumar, Julia Lear, Anita Manadhar, Limpho Mandoro, Cristina Mihes, Michiko Miyamoto, Ahmed Adam Mohamed Nour, Mahandra Naidoo, Lita Octavia, Numan Ozcan, Vanessa Phala, Bolormaa Purevsuren, Neeran Ramjuthan, Balasingham Skanthakumar, Kim Sayers, Lejo Sibbel, Ryusuke Tanaka, Mafalda Troncho, Lourdes Maria Viegas dos Santos, Valérie Van Goethem, Youngmo Yoon, Chau Weng Yin, and Dennis Zulu.

We would like to thank Xavier Beaudonnet (NORMES), Mahandra Naidoo (DWT/CO-New Delhi), the Bureau for Workers' Activities (ACTRAV) and the Bureau for Employers' Activities (ACTEMP), for their valuable contributions and inputs to the content of this report.

We would also like to express our acknowledgments to the 113 respondents from 84 countries who answered the Survey and provided valuable information.



► Executive Summary

The ILO developed and conducted a Survey to assess how labour dispute resolution mechanisms have responded to the challenges posed by the Covid-19 pandemic. The Survey was answered online from June 2021 to August 2021 by 113 institutions from 84 countries, focusing on possible changes in the volume of labour disputes and different types of restrictions to their functioning by the pandemic.

The results of the Survey showed that the impact of the Covid-19 pandemic on labour dispute resolution institutions was perceived unevenly in different regions or even within the same region. Although most of the institutions remained open, either partially or fully, the continuation of services was somehow disrupted, which may have had a negative impact on access to labour justice.

Covid-19 pandemic caused a variation in the volume of labour disputes brought to the attention of some of the institutions, although lack of statistical data was a common feature among several of the respondents.

With the environment changing rapidly during the pandemic, institutions had to adopt different measures. Technological improvements to permit electronic management of cases were applied or improved, but may have been disproportionately distributed, emphasising that promoting wide access to digital technologies as well as building digital competences is thus key to access labour justice for all.

The results also showed that other measures adopted by the institutions to deal with the restrictions imposed by the Covid-19 pandemic include changes in the number of facilities and personnel available, enhancement of alternative dispute resolution mechanisms, and changes in their procedural rules, especially in respect to the enforcement of decisions and awards.

The Covid-19 pandemic highlighted that increased efforts are required to improve the inclusiveness of legal institutional frameworks for labour relations and emphasized that crisis responses need to ensure a strategic approach that includes developing the capacity of governments and work institutions. The overall results of the Survey showed that challenges imposed by the pandemic on labour dispute resolution institutions must be addressed considering key principles of good governance in relation to broad accessibility, equity and inclusiveness, efficiency of institutions and effectiveness of their procedures, considering a more human-centred approach.



► Introduction

The ILO Centenary Declaration for the Future of Work has elected as one of the priorities for action an increasing investment in the institutions of work as to ensure all people benefit from the changes in the world of work.¹

Moreover, the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205)², adopted by an overwhelming majority of ILO constituents, emphasizes that crisis responses need to ensure a strategic approach that includes developing the capacity of governments, including regional and local authorities, and work institutions.³

It is important to remark that the 109th International Labour Conference adopted the Global call to action for a human-centred recovery from the COVID-19 crisis referring specifically to the need to “reduce disparities in digital access” and to the ILO action to “strengthen the capacity of labour administrations, labour inspectorates and other relevant authorities to ensure implementation of rules and regulations”.⁴

It is also worth to mention that, due to the pandemic, the European Commission has started adopting measures targeted at fostering digitalisation of judiciary institutions with the aim to improve access to justice and the efficiency of these systems in the EU and cross-border collaboration.⁵

Moreover, the Covid-19 crisis highlighted that enhanced efforts are required to improve the inclusiveness of legal institutional frameworks for labour relations.⁶ Hence, ILO has been committed to support its constituents in improving access to justice by, as appropriate, revising legal frameworks to extend and protect rights for all, streamlining procedures and reducing costs, and reinforcing the qualifications and capacity of all personnel in courts and institutions of dispute prevention and resolution.⁷

A series of restrictions on the functioning of labour dispute resolution institutions were imposed by the pandemic. Many of these institutions had to close their doors to the public or reduce and adjust their operations. This may have had a negative impact on access to justice.

The Labour Law and Reform Unit of the ILO developed a Survey to assess how labour dispute resolution mechanisms have responded to the challenges posed by the pandemic. The survey focused on mechanisms of labour dispute resolution established by the State, whether judicial or non-judicial. It did not address workplace-level institutions and processes such as labour-management cooperation mechanisms, or grievance-handling procedures. Nor did it cover procedures established by parties to collective agreements.

1 ILO Centenary Declaration for the Future of Work. Available in <https://www.ilo.org/global/about-the-ilo/mission-and-objectives/centenary-declaration/lang--en/index.htm>

2 R205 - Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205). Available in https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:3330503

3 ILO Standards and COVID-19 (coronavirus). Key provisions of international labour standards relevant to the COVID-19 pandemic and recovery, and guidance from the Committee of Experts on the Application of Conventions and Recommendations. Available in https://www.ilo.org/wcmsp5/groups/public/---ed_norm/-normes/documents/publication/wcms_780445.pdf

4 ILO: *Global call to action for a human-centred recovery from COVID-19 crisis that is inclusive, sustainable and resilient*, adopted during the 109th International Labour Conference, 17 June 2021. p. 7 and 11. Available in https://www.ilo.org/ilc/ILCSessions/109/reports/texts-adopted/WCMS_806092/lang--en/index.htm

5 Communication on Digitalisation of Justice in the European Union and Proposal for e-CODEX Regulation. More information available here https://ec.europa.eu/info/policies/justice-and-fundamental-rights/digitalisation-justice/communication-digitalisation-justice-european-union-and-proposal-e-codex-regulation_en

6 ILO: Preview of the Programme and Budget proposals for 2022–23, Governing Body, 340th Session, Second item on the agenda, Outcome 1.4, Geneva, October–November 2020. Available in https://www.ilo.org/gb/GBSessions/GB340/pfa/WCMS_757879/lang--en/index.htm

7 ILO: Preview of the Programme and Budget proposals for 2022–23, p. 11.

States commonly establish different types of institutions and processes to prevent and resolve labour disputes. Some are empowered to exercise final judicial authority to determine a binding outcome of a dispute. This includes ordinary courts, specialized labour courts and a variety of other institutions. Other institutions and processes exclusively provide conciliation, mediation, and arbitration services. These methods of alternative dispute resolution (ADR) can limit the number of cases that come to a judicial mechanism for final decision-making.

In the institutions examined important trends have been observed. With respect to the physical structure and their personnel, a number of institutions experienced changes, either to strengthen their operational capacity during the pandemic and to cope with a possible increase of volume of labour cases, or to deal with the restrictions imposed and consequences of contamination (including absences, sick leaves, and deaths of employees).

Several institutions also accelerated the use of technological solutions to ensure the continuation of services provided. These changes might also have functioned as a catalyst for further change and cutting-edge innovation in the future, providing a faster and costless procedure to parties. However, access to such technological improvements may be uneven globally.

Increase and decrease in the volume of cases presented to these institutions have also been detected as result of the pandemic of COVID-19 and challenges imposed to workers and employers.

Finally, the Survey intended at assessing whether procedures in dispute resolution institutions experienced changes to cope with the pandemic in respect to preliminary injunctions and enforcement of awards and decisions. In this topic, some institutions have adapted their procedures to enable the delivery of services and to support the compliance with decisions.

This report aims at demonstrating the results of the Survey, first considering global trends with respect to i) structure of labour dispute resolution institutions; ii) labour disputes distribution during the Covid-19 pandemic; iii) impact on procedures; iv) practice and operation. Further on, the report analyses trends and specific cases in each region.

Lastly, in final considerations, the report endeavours to offer comments and establish connections on the data provided by the Survey, showing that the challenges posed by the pandemic to labour dispute resolution institutions may have come to stay and will demand a more human-centred and holistic approach to be overcome.

► Methodology

The survey was designed considering how judicial and non-judicial labour dispute resolution mechanisms have responded to i) possible changes in the volume of disputes brought to their attention, and ii) the physical challenges imposed by COVID-19 pandemic restrictions.

The first part of the Survey evaluated the structure of labour dispute resolution institutions, seeking to understand (i) whether there have been changes in their personnel and facilities available, and (ii) the distribution of labour disputes, focussing on the volume of disputes and their nature. The second examined how procedural rules and practices might have been adapted in response to the restrictions imposed in response to the pandemic. It aimed to map the possible changes that occurred to adjust the operational procedures applied to disputes.

Questions allowed: i) multiple choices and ii) multiple answers in checkboxes. In addition, explanatory boxes were available so the respondents could provide further details in respect to their answers.

For the purposes of the Survey, COVID-19 related claims are those that are a direct result of the pandemic, or that have a significant connection to it. It includes cases based on regulations enacted to respond to the challenges posed by the pandemic. In either category, the subject matter of these claims could concern, for example, individual and/or collective dismissals; changes to or suspension of the employment contract; reduction of wages and/or working hours; occupational illnesses and injuries; and accidents.

The Survey was translated into 6 languages⁸ and it was distributed to 220 institutions and labour practitioners in 125 countries and answered online from June 2021 to August 2021. Answers were registered by 113 institutions⁹ and labour practitioners from 84 countries.¹⁰ The data, results and information are limited and refer to the beginning of pandemic up to the closing of the Survey (Aug 2021). The respondents were members of labour dispute resolution institutions established by or supported by the Governments (42%), judiciary institutions (19%), academics and researchers (11%), lawyers and practitioners (4%), arbitrators/conciliators/mediators (3%), and others interested actors, such other governmental bodies (21%).

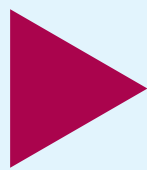
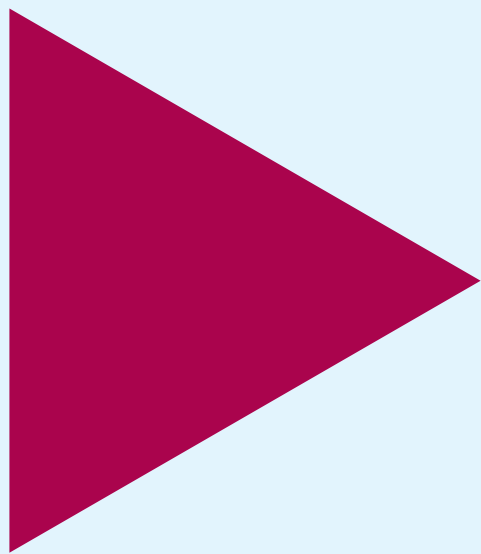
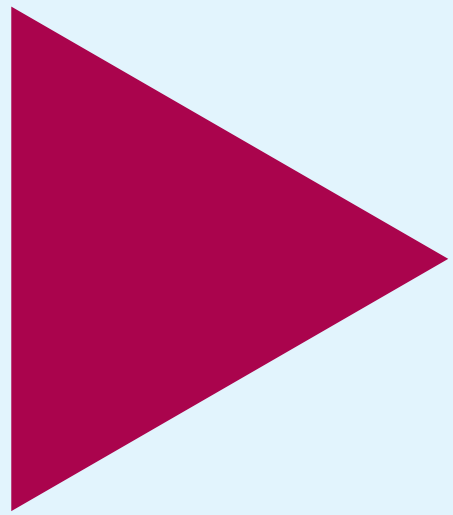
Incomplete Surveys were considered provided that at least one of the four sections was finished. Answers without the identification of the region, country and type of institution were not considered. Comments on specific countries or institutions focused only on those that provided further details on explanatory boxes.

It might be the case that more than one institution in one country responded to the Survey and provided different information in respect to the same topic. This happened because labour dispute resolution institutions are not always under the same administration (Ministry of Labour, Judiciary, etc) or because individual and collective disputes are dealt by different institutions, which may have decided differently with respect to measures to mitigate the effects of the pandemic. These differences are explained throughout the text.

⁸ Arabic, English, French, Portuguese, Spanish, and Russian.

⁹ 113 labour dispute resolution institutions responded to the Survey. However, it is necessary to note that not all of them provided responded to all sections of the Survey.

¹⁰ Albania, Antigua and Barbuda, Argentina Armenia, Australia, Austria, Azerbaijan, Bangladesh, Barbados, Belarus, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Cape Verde, Cambodia, Cameroon, Canada, Chile, China, Colombia, Cook Islands, Costa Rica, Dominican Republic, El Salvador, Fiji, France, Gabon, Georgia, Greece, Guatemala, Honduras, Hungary, India, Iraq, Ireland, Israel, Ivory Coast, Jamaica, Japan, Kyrgyzstan, Lesotho, Liberia, Luxembourg, Madagascar, Malaysia, Mongolia, Mexico, Nepal, New Zealand, Nicaragua, Nigeria, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia, Singapore, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Sudan, Thailand, The Gambia, Trinidad and Tobago, Turkey, United Kingdom (excludes Northern Ireland), United States, Uruguay, Venezuela, Yemen, and Zambia.

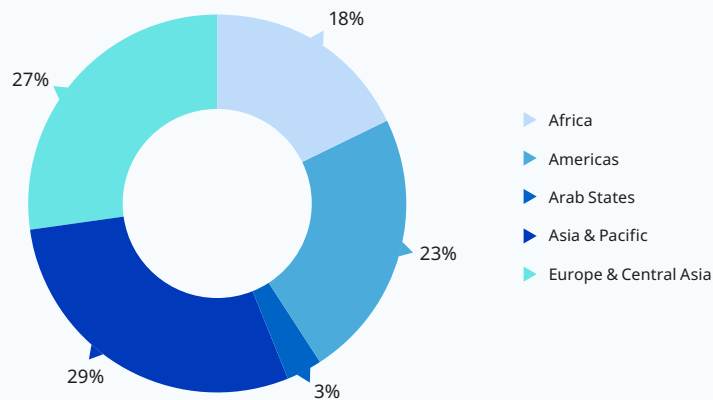


► The response of labour dispute resolution institutions

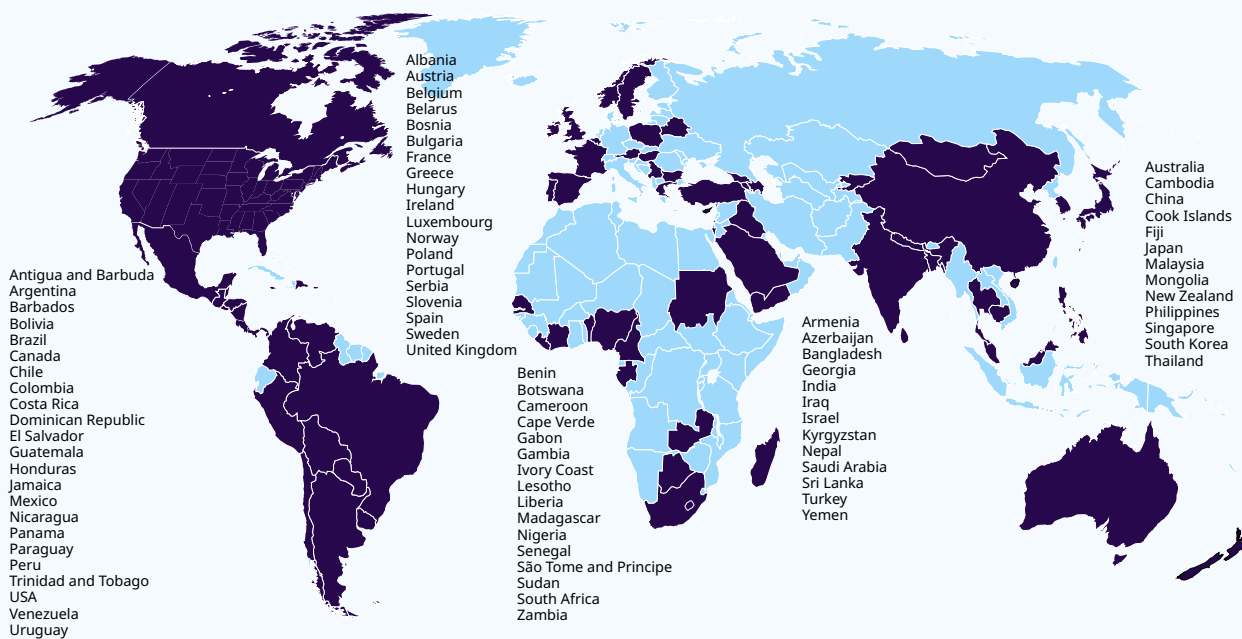
Geographical Coverage

The Survey registered participants from Arab States, Africa, Americas, Asia and Pacific, and Europe and Central Asia. In the map, in dark blue, the countries covered by the respondent institutions.

► **Figure 1: Regions (by percentage of respondent institutions)**



► **Figure 2: Countries covered by respondent institutions**

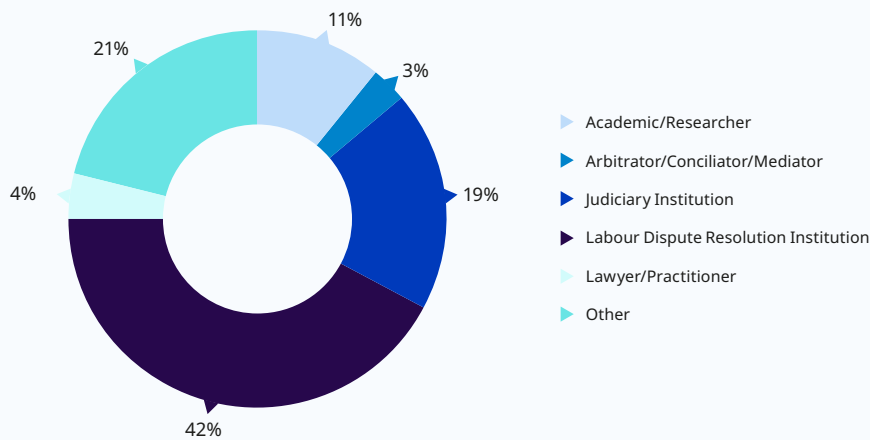


Types of respondents

The Survey registered a wide range of respondents, most from Labour Dispute Resolution Institutions (42%) and the Judiciary (19%). Researchers, lawyers and independent arbitrators, conciliators and mediators accounted in total for 18% of respondents.

The Survey also registered the participation of other types of respondents, such as representatives of the Governments, when not in charge of labour dispute resolution directly (21%).

► **Figure 3: Type of Respondents**



Structure of Labour Dispute Resolution Institutions

The first section of the Survey aimed at evaluating possible changes in the physical structure and composition of labour dispute resolution institutions during the COVID-19 pandemic. These changes, if any, may have occurred either to cope with physical restrictions imposed by the pandemic or to better accommodate a larger number of complaints received.

Physical operation of labour dispute resolution institutions during the pandemic

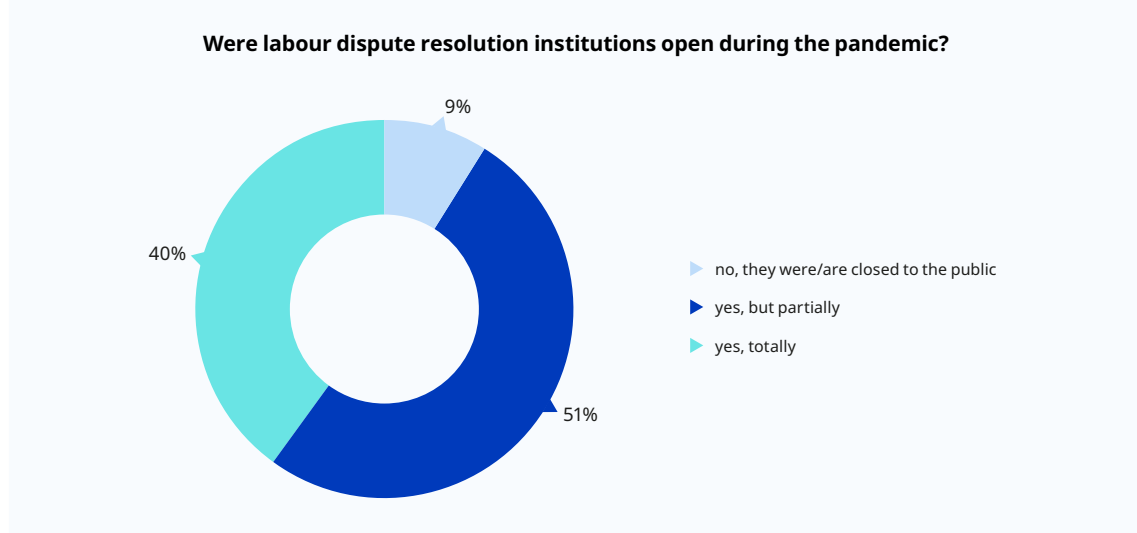
In respect to whether labour dispute resolution institutions remain open physically and operating during the pandemic, most of them remained totally or partially functioning or open to the public.¹¹ Just 9% of the institutions were completely closed to the public. Some of these institutions, as it will be better explained further, applied technological improvements, or established remote mechanisms to enable the continuation of the procedures while doors were closed.¹²

In the institutions in which partial closure was implemented, specific situations have been observed. In some countries, the opening and closures would follow the increase and decrease of rates of COVID-19 infections in the country. This was noted in all regions. In other countries, although partial closures took place, physical attendance has been replaced by online tools, so it would be possible to somehow

¹¹ 112 labour dispute resolution institutions responded to this section of the Survey.

¹² Examples include institutions in Australia (Fair Work Commission), Brazil (Labour Courts, including Regional and Superior Courts) and Canada.

► **Figure 4: Opening and closure of labour dispute resolution institutions during COVID-19**



continue to offer the services to the population.¹³ In other countries, the partial functioning of the institutions focused only on urgent matters.¹⁴

Restrictions might have impacted on the length of trial of labour cases, as in some countries measures aiming at mitigating the effects of the pandemic may also have caused postponement of resolution of cases, even if for a short period of time.¹⁵

The replacement of physical procedures by online tools, even though might have enabled the continuation of services provided to the population, might as well have influenced the level of access to these services, as, it will be seen further, the use of these tools is not always at the reach of everyone.

In all countries where there has been at least a partial opening to the public, sanitary and physical restriction measures were imposed, such as mandatory masks, restrictions on number of persons and social distancing.

Changes in the composition and distribution of labour dispute resolution institutions

In respect to whether labour dispute resolution institutions have undergone changes in their personnel and the number of facilities available to the public, reports state that 63% of the institutions did not suffer significant changes.

However, in 21% of the institutions there has been either a decrease or a reallocation of personnel to deal with COVID-19 related claims. This might have happened due to a number of reasons, such as absence of employees due to health reasons and death of employees diagnosed with COVID-19¹⁶, personnel holding half-day of work, alternate workdays and teleworking to comply with safety measures.¹⁷

¹³ Examples include institutions in Cook Islands, Hungary, Ireland, New Zealand, and United Kingdom (excludes Northern Ireland).

¹⁴ Examples include institutions in Gabon, Georgia, Japan, Luxembourg.

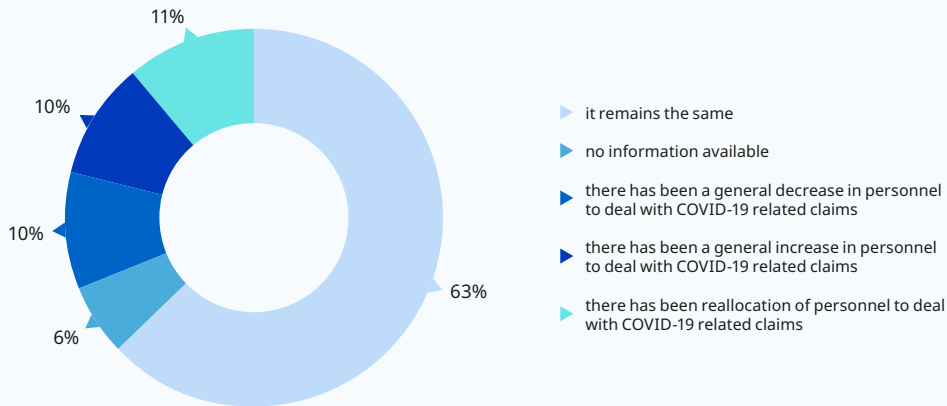
¹⁵ Examples include institutions in Benin, Bolivia, Guatemala, France, Ireland (outside Dublin), Japan, Kyrgyzstan and Lesotho.

¹⁶ Case of Guatemala.

¹⁷ Examples include institutions in Gambia, Hungary, Liberia, Madagascar, Sao Tome and Principe.

► **Figure 5: Changes in personnel during the pandemic**

Has the personnel in labour dispute resolution institutions changed during the pandemic, and, if so, how?

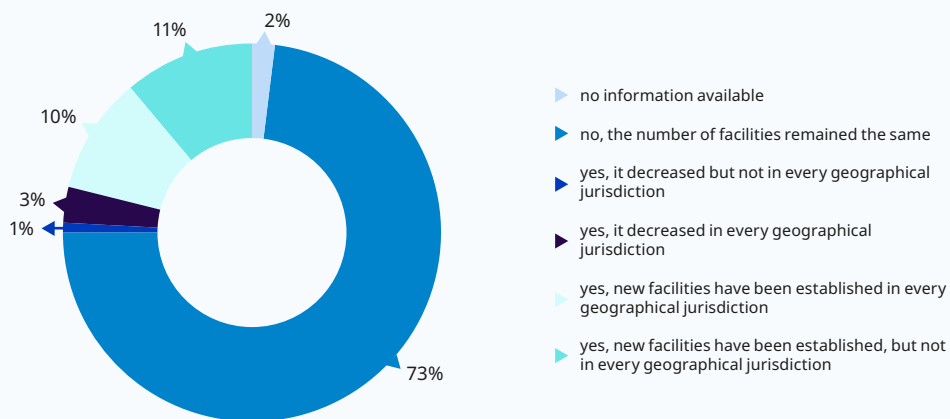


In most of the institutions (73%), the number of facilities remained the same. However, changes have been observed either due to the decrease of facilities available because of physical restrictions¹⁸, or to the creation of more facilities to deal with a possible increase in the number of labour cases.¹⁹

In some countries, the reallocation of personnel²⁰ and the increase of personnel²¹ took place specifically to deal with a rise in the number of labour cases received by respective institutions. The number of facilities available to the public may also have undergone changes due to the physical restrictions imposed by COVID-19 pandemic.

► **Figure 6: Changes in the number of facilities available to the public**

Has the number of labour dispute resolution facilities available to file/hear claims changed during the pandemic?



18 Examples include institutions in Cameroon, Belgium and Ireland, which decided to reduce the physical availability of facilities to comply with sanitary measures, and Senegal.

19 Examples include institutions in Bolivia, Cook Islands, Hungary (virtual), New Zealand (virtual), Nigeria (virtual), Panama, and Turkey.

20 Examples include institutions in Chile, Panama and New Zealand.

21 Examples include institutions in Armenia, Australia, Cabo Verde, Panama, United Kingdom (excludes Northern Ireland).

Africa

In more than 50% of respondent institutions there has been some reallocation or decrease in personnel due to the restriction measures to avoid contamination in the workplace.²² Besides rotation schemes and part-time work, non-essential staff would be sent home on full time basis.

In most of the countries, institutions remained open even if partially and focusing only on urgent matters. Few institutions declared they were closed for specific periods, usually related to severity of the pandemic.

► Box 1: Highlights on structure of labour dispute resolution institutions in Africa during the pandemic

Structure of labour dispute resolution institutions in Africa during COVID-19

► Cape Verde

Labour dispute resolution institutions remained closed during the declaration of State of Emergency and have not suffered changes in the number of facilities available. However, reports state that there has been a general increase in staff, with particular hiring of labour technicians not only to handle the increase of claims but also to implement protection measures related to mass dismissals.

► Madagascar

Labour dispute resolution institutions in the country remained partially open during the pandemic. However, reports state that there has been a general decrease in staff to handle COVID-19 related complaints, due to health protocols. Personnel were asked to work on rotational shifts, while non-essential personnel were asked to stay home.

► Nigeria

Labour dispute resolution institutions in the country remained closed during the declaration of State of Emergency and have not suffered changes in the number of facilities available or personnel. However, a provision of online court facilities at the National Industrial Court, starting with major divisions at Abuja, Lagos, and Port Harcourt, is in place.

► Senegal

Judicial institutions were closed for certain periods of time. Labour Administration was functioning, although its hours had been reduced to allow people to return home before the curfew that had been instituted to contain the advance of the pandemic. Reports stated that reallocation of personnel or even reduction has been detected depending upon the institution.

► Sao Tome and Principe

There has been a general decrease in the personnel dedicated to deal with labour disputes due to the pandemic, although no reduction in the number of facilities has been detected. Labour dispute resolutions institutions remained partially open once labour complaints are considered priority. However, only cases related to dismissals were considered during the pandemic and dealt by a reduced staff.

Arab States

Respondent institutions that completed this section of the Survey provided little detailed information about their answers.²³ For this reason, specific trends in this region could have not been sufficiently assessed in respect to possible changes in the structure of these institutions.

► Box 2: Highlights on structure of labour dispute resolution institutions in Arab States during the pandemic

Structure of labour dispute resolution institutions in Arab States during COVID-19

► Saudi Arabia

In Saudi Arabia, facilities remained totally closed to the public. Institutions developed online tools and applied technological improvements as to help keeping the same number of the facilities and personnel. Reports made by respondents stated that it was possible to distribute the number of claims based on the capacity of original staff and facilities available.

► Yemen

Labour dispute resolution institutions remained fully open to the public and did not suffer changes in number of facilities. However, respondent institutions reported a general decrease in personnel to deal with COVID-19 related claims.

²² 20 African labour dispute resolution institutions answered this section of the Survey.

²³ 3 institutions responded to this topic of the Survey in the Region.

Americas

In Americas²⁴, results collected do not show any specific trend in respect to significant changes in the structure of institutions during the pandemic.

The use of online tools was detected in almost all institutions that remained closed or partially open to enable the continuation of services, even if according to the fall or rise of infection rates.

► Box 3: Highlights on structure of labour dispute resolution institutions in Americas during the pandemic

Structure of labour dispute resolution institutions in Americas during COVID-19

► Bolivia

Bolivia ordered the closure of all governmental bodies during the pandemic and no alternative means of access to labour dispute resolution institutions have been offered to the public. Reports of respondent institutions stated that notwithstanding the lack of access to labour dispute resolution institutions during the pandemic, several are the reports of mass dismissals and violation of labour rights in the same period.

► Brazil

Both judicial and non-judicial institutions of labour dispute resolution remained closed to the public and offered all services through online applications. Information provided by the Superior Labour Court, responsible for unifying procedures in over 24 Regional Labour Courts, states that the further development of a previous well-succeeded digital system of management of labour claims enabled continuation of all proceedings without any change in the number of facilities, but with necessary reallocation of personnel.

► Colombia

Institutions were completely closed to the public and did not suffer changes in personnel. However, new virtual facilities have been created to enable the continuation of services (implementation of virtual tools, telephone lines and exclusive personnel).

► Guatemala

Guatemala reported a decrease in the number of personnel available particularly due to contamination by Covid-19. Facilities were closed to the public during the first 4 months of the pandemic (March 2020 – July 2020) and have been resumed ever since physically.

► Venezuela

The labour courts and labour inspectorates worked in rotation of 5 working days and 5 days of radical quarantine. Meanwhile, virtual facilities have been created to enable the continuation of services.

Asia and Pacific

More than half of the respondent institutions remained fully open to the public (54%).²⁵ However, they reported that operations were significantly adapted to comply with recommended sanitary measures. In the majority of institutions (about 70%) neither change in personnel or number of facilities were reported.

About 65% of institutions that remained either closed or open partially also reported technological tools to be applied to the deal with labour claims during the pandemic and enable the continuation of services.

²⁴ 26 institutions responded to the Survey in the region.

²⁵ 33 labour dispute resolution institutions responded to this section of the Survey in the Region.

► **Box 4: Highlights on structure of labour dispute resolution institutions in Asia & Pacific during the pandemic**

Structure of labour dispute resolution institutions in Asia & Pacific during COVID-19

► **Australia**

Fair Work Commission offices were closed to the public during the pandemic but carried out all services online. Due to a reported peak on the number of labour cases, there has been a general increase in the personnel available, although number of physical facilities did not change.

► **Cambodia**

Respondent institutions reported to continue to provide services fully during COVID-19 pandemic by following strictly the health measures, such as physical distancing, wearing a mask, limiting number of the persons in site, temperature taking, among other measures. New facilities have been made available, although no changes in personnel have been reported, and provision of masks and sanitizers free of charge to visitants was put in place.

► **Cook Islands**

Respondent institutions reported that new facilities have been made available and fully open, as a result of the ILO Decent Work Country Programme for Cook Islands 2019-2022, to provide free mediation services for employment disputes.

► **Malaysia**

Respondent institutions remain open subject to the Standard Operating Procedure of the Movement Control Order (MCO) imposed by the Government. Cases were handled on appointment basis, depending on the phases of the MCO. Although the number of facilities and personnel remained the same, online platforms enabling online hearings and presentation of documents to manage and hear cases were put in place.

► **New Zealand**

Respondent institutions remained partially open and some of them reported a rise in the number of cases, which resulted in reallocation of personnel to deal with it. The Employment Mediation Service offered a fully remote service (phone initially and then mediation on Zoom after a pilot) when the country was in a hard lockdown. The Employment Court continued to convene telephone conferences, deal with some matters by telephone hearing or online tools and, when necessary, in person for urgent matters.

Europe & Central Asia

In Europe & Central Asia, over 90% of the respondent institutions remained fully or partially open to the public during the pandemic.²⁶ Many of them, however, suspended physical procedures and replaced them by online or telematics tools.²⁷

The volume of labour disputes presented to labour disputes resolution institutions varied across the regions. Even in the same region, the results found in each country were different, as a probable consequence of internal measures adopted by Governments and institutions to cope with COVID-19 pandemic. Respondent institutions were asked to provide information in this respect.²⁸

²⁶ 31 labour dispute resolution institutions responded to this section of the Survey in the Region.

²⁷ 75% of the institutions that responded to this section of the Survey.

²⁸ 107 institutions provided responses to this section of the Survey considering all regions.

► **Box 5: Highlights on structure of labour dispute resolution institutions in Europe & Central Asia during the pandemic**

Structure of labour dispute resolution institutions in Europe & Central Asia during COVID-19

► **Hungary**

Respondent judicial institutions reported that they were partially open, but there has been reallocation of personnel and creation of new facilities. Operations followed the fall and rise of infection rates and waves of the pandemic, in line with the adoption of the Emergency Procedure Government Decree No. 2. Changes comprised i) prohibition of physical hearings, ii) regular mandatory ventilation of courtrooms and other physical restriction measures, and iii) reduction in the number of persons in the buildings. Online tools replaced partially the services.

► **Luxembourg**

In judicial institutions, service was reduced to only urgent matters during the beginning of the pandemic (mainly summary proceedings and procedures related to nullity of dismissal of specially protected employees). Thereafter, the service resumed almost normally, with sanitary restrictions and measures to better organise hearing time and to limit the presence of representatives and litigants. Hearings have always remained public (a constitutional requirement). To make up for the 'lost time', the labour courts and the Court of Appeal reduced the judicial holidays by two weeks in 2020. Hearings were held in larger rooms. No changes in personnel and facilities.

► **Kyrgyzstan**

In connection with the COVID-19 pandemic, the work of the labour dispute resolution bodies was completely suspended and no changes in personnel and facilities was reported.

► **Portugal**

The Labour Mediation System (SML) is a service based on territorially organised lists of mediators. Mediators carry out their work mainly in locations protocolled by the Ministry of Justice for that purpose. At the beginning of the pandemic, a regime was in force that prohibited the realization of mediation sessions in a face-to-face format, only being possible through online platforms and with consent of parties. Respecting the rise and fall of infection rates, another regime has been applied with the possibility of mediation sessions being conducted in a face-to-face format, provided the health hygiene and safety rules determined by the Directorate-General of Health were complied with. No change in personnel or facilities was reported.

► **Poland**

Judicial institutions were closed to the public and only urgent matters were handled for a certain period and no changes in personnel and facilities were reported.

► **Turkey**

In judicial institutions, legal deadlines were suspended with the Amendments to Certain Laws No. 7226/2020 during a certain period and only urgent matters were handled. Facilities were partially open to the public and no changes in personnel were reported. During the pandemic, a new facility started to be implemented which allows making online mediation applications for all kind of disputes including labour disputes.

► **United Kingdom (excluded Northern Ireland)**

ACAS, the Advisory, Conciliation and Arbitration Service of Great Britain, continued to operate throughout the pandemic. As most of the work on Individual Dispute Resolution was already performed remotely (by phone or email), the operation was moved fully to online services. The collective dispute resolution cases continued to be handled through a mix of distanced face-to-face contact and online platforms. Increase in personnel was reported, as new conciliators were recruited through the pandemic, but facilities remained the same.

Labour disputes distribution during the COVID-19 pandemic

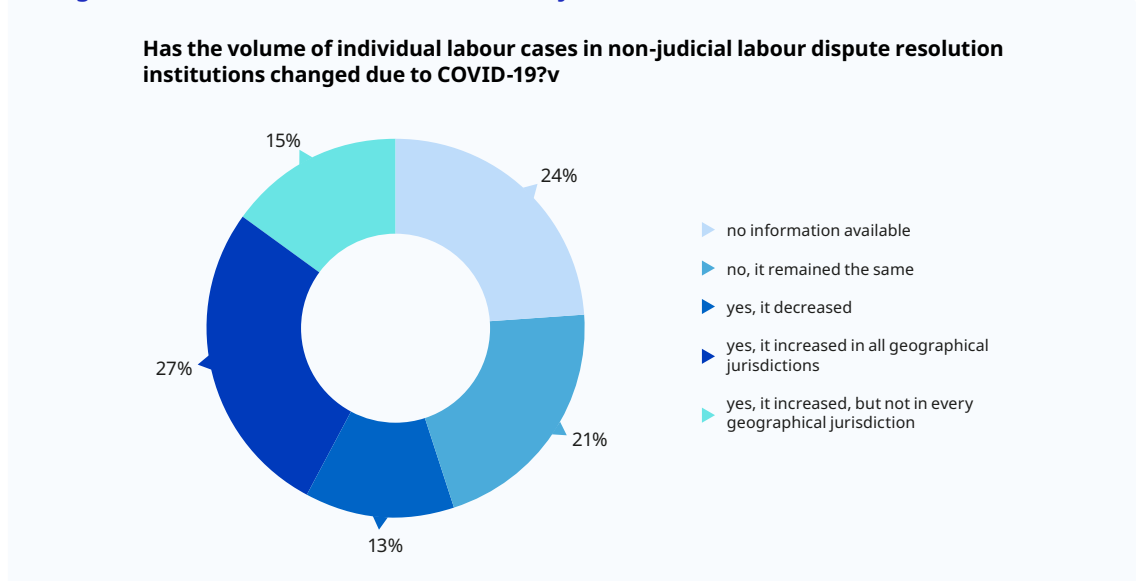
In Europe & Central Asia, over 90% of the respondent institutions remained fully or partially open to the public during the pandemic.²⁹ Many of them, however, suspended physical procedures and replaced them by online or telematics tools.³⁰

The volume of labour disputes presented to labour disputes resolution institutions varied across the regions. Even within the same region, the results found were different, as a probable consequence of internal measures adopted by Governments and institutions to cope with COVID-19 pandemic. Respondent institutions were asked to provide information in this respect.³¹

Volume of individual labour cases in non-judicial labour dispute resolution institutions

According to the respondent institutions, in 42% of them an increase in the volume of individual labour cases in non-judicial institutions has been found. In many countries, the increase had a direct link to the restrictions imposed by the pandemic and the consequent closure of enterprises, reduction in the volume of economic operations and dismissals, even if regionally concentrated.³²

► **Figure 7: Volume of individual cases in non-judicial institutions**



29 31 labour dispute resolution institutions responded to this section of the Survey in the Region.

30 75% of the institutions that responded to this section of the Survey.

31 107 institutions provided responses to this section of the Survey considering all regions.

32 Examples include institutions in Australia, Brazil, Bolivia, Costa Rica, The Gambia, Liberia, Malaysia, Panama, and Paraguay. The information in respect to possible causal link between Covid-19 pandemic and changes in the volume of labour disputes presented was provided exclusively by the respondents.

In China and New Zealand, although an increase has been detected, the information provided by respondents indicates that such an increase has not surpassed 5%, compared to previous years. In Australia, the increase was detected only in the first 6 months of the pandemic and has decreased against the trend in recent months.

In 13% of the institutions, a decrease in the volume of labour cases was detected. This might have happened due to the closure of establishments and lockdowns decreed by Governments³³, as well as due to the lack of means by social actors to reach online tools and remote services.

In Argentina, mass dismissals and suspensions of employment contracts have been prohibited by the Government during the pandemic, which may explain the decrease in the volume of labour disputes presented to labour dispute resolution institutions in general.³⁴

In South Africa, respondent institutions reported a sharp decline in the volume of individual cases involving dismissals due to misconduct and capacity of the worker.

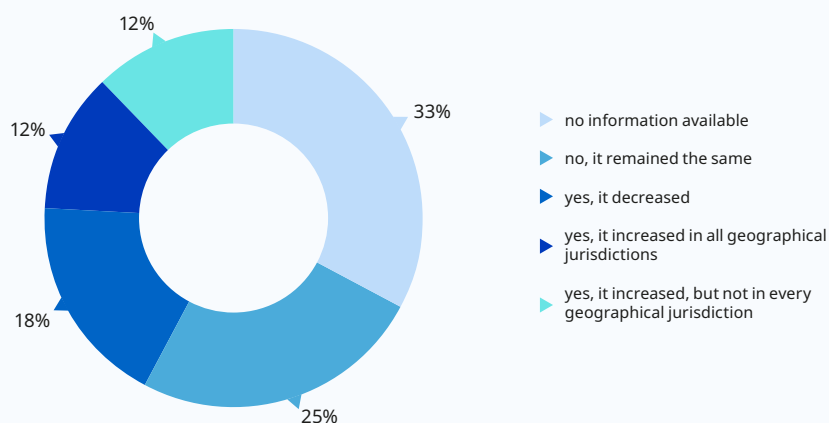
Volume of collective labour cases in non-judicial labour dispute resolution institutions

With respect to labour collective disputes, in most of the institutions either the information is not available, or the volume remained the same, 33% reported that no information was available and 25% reported that the volume remained the same. An increase was found in only 24% of the institutions and 18% of institutions experienced some decrease.

Institutions which reported a decrease clarified that although the pandemic has caused dismissals and reports of labour rights violations, restriction measures and lockdowns prevented the presentation of collective disputes.³⁵ In the United Kingdom, although the volume decreased at the beginning of the pandemic, it has begun increasing again.³⁶

► **Figure 8: Volume of collective cases in non-judicial institutions**

Has the volume of collective labour cases in non-judicial labour dispute resolution institutions changed due to COVID-19?



33 As in many places, as seen before, only urgent matters were dealt by labour disputes resolution institutions during the pandemic.

34 Information provided by respondents.

35 Examples include institutions in Belgium, Fiji, Guatemala and Paraguay.

36 Information provided by the respondent institution, but without statistical data.

In Japan, respondents stated that the decrease in the volume of collective cases does not present a direct link to the pandemic, however further detail on this matter has not been provided.

In certain countries information provided directly linked the increase in the volume of collective cases to the pandemic. It is the case of Panama, where closure of the enterprises, the subsequent reopening and the established conditions affected the collective rights, and it was necessary to implement a Tripartite Dialogue Table to mediate agreements.³⁷ In Uruguay, collective disputes have particularly increased among the health sectors. In El Salvador, no collective dispute founded on economic reasons was presented during the pandemic.

Volume of individual labour cases in judicial labour dispute resolution institutions

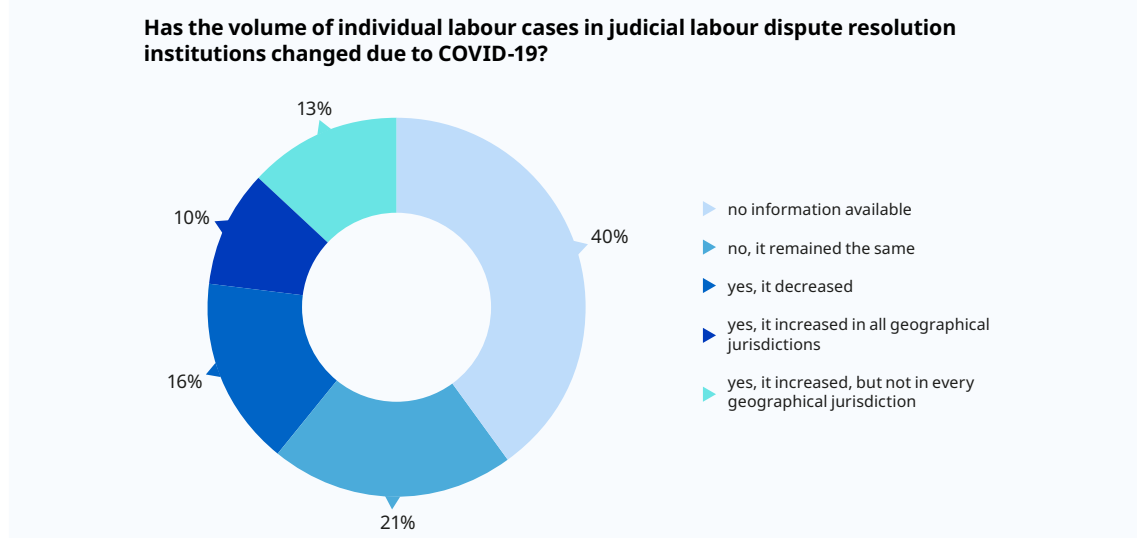
Concerning individual labour disputes in judicial institutions, lack of statistics and information available accounted for 40% of the respondent institutions.

The institutions reporting an increase of labour cases directly linked to the pandemic informed that claims were mainly related to unfair dismissals, payment of wages and unemployment benefits.³⁸

Other institutions reported an increase not only in the volume of labour cases presented, but also in the stock of cases waiting for trial, due to the lockdowns and reduction of activities of the courts during the pandemic.³⁹

Institutions which reported a decrease in the volume of cases also clarified that although the pandemic has caused dismissals and reports of labour rights violations, restriction measures and lockdowns contributed to a fall in the number of individual claims presented to the Judiciary⁴⁰, which may be stabilized in due course.

► **Figure 9: Volume of individual cases in judicial institutions**



37 Information provided by the respondent institution. Further details can be found here <https://www.mitradel.gob.pa/mesa-tripartita-por-la-economia-logra-23-consensos/>.

38 Examples include institutions in Malaysia, New Zealand, Panama, Senegal.

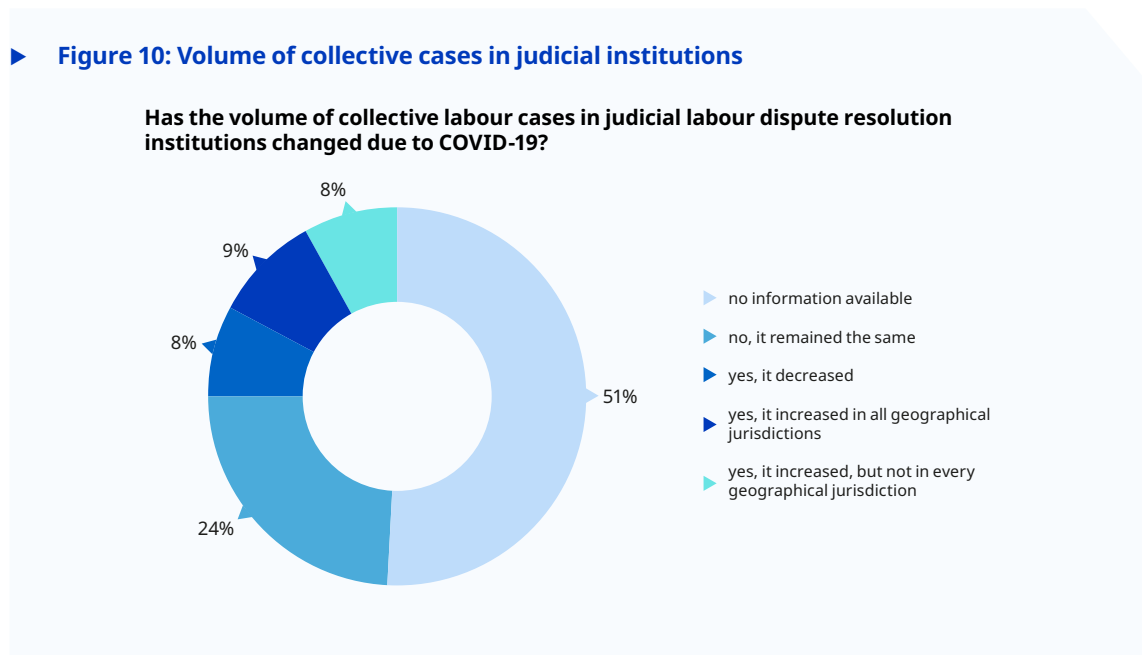
39 Examples include Benin and France.

40 Examples include institutions in Belgium, Fiji, Ireland and Slovenia.

Volume of collective labour cases in judicial labour dispute resolution institutions

More than half of the respondent judicial institutions (51%) stated lack of data in this respect, but one third of this percentage reported that lack of information relates to the fact that collective labour cases are not dealt with by the Judiciary.

However, 17% of the total respondent institutions reported an increase in the volume of collective labour cases presented to the Judiciary.⁴¹ In respect to institutions that faced a decrease in the volume of disputes (8%), information provided attested that restriction measures and lockdowns also contributed to a fall in the number of disputes brought to the attention of the Judiciary.



The comparison shows that increases in the volume of labour disputes were more perceived by institutions that deal with individual disputes, either judicial or non-judicial. In average, about 33% of institutions reported some increase in individual cases while only 20% reported increase in the volume of collective cases.

This can be explained by the fact that in many institutions, collective disputes follow a more lengthy and detailed proceedings while individual complaints are usually simpler to be presented. Also, many institutions, as it was mentioned before and it will be seen in more detail further, applied technological improvements to enable continuation of services and this is more likely to be used by individuals and their representatives in large scale.

Some institutions, for instance, reported that the prohibition of in person meetings or hearings might have compromised negotiations related to collective cases.

Moreover, lack of statistical data is more perceived in respect to collective cases. While lack of data was reported by 32% of institutions dealing with individual cases, about 42% of institutions had the same perception about collective cases.⁴²

41 Examples include institutions in Malaysia, New Zealand and Panama.

42 Considering judicial and non-judicial.

Africa

More than 50% of institutions in Africa experienced some increase in the volume of labour cases.⁴³

Respondent institutions that completed this section of the Survey provided very little information about their answers. For this reason, specific trends in this region could have not been sufficiently assessed in respect to possible changes in the volume of labour disputes presented to these institutions.

In some countries, the volume of individual labour cases increased in non-judicial institutions but decrease or remained the same in judicial institutions in the same period. Moreover, volume of collective cases in non-judicial and in judicial institutions in the same period not always followed the same trend.

► Box 6: Highlights on volume of labour disputes in Africa during the pandemic

Volume of labour disputes in Africa during COVID-19

► Ivory Coast

Increases in volume of labour cases were detected in general. Respondent institutions reported that labour disputes derived from massive closure of enterprises and workers presented complaints to Courts and Labour Inspectorate.

► Liberia

Increases in volume of labour cases were detected in general. Respondent institutions reported that labour disputes derived from massive closure of enterprises and were located geographically in jurisdictions where concessionaires and small skill companies operate.

► Senegal

According to the respondent institutions, there has been a large increase in number of individual and collective labour disputes presented to both types institutions, mainly related to payment of wages based on the Ordinance n° 001-2020 (Derogatory measures to the dismissal and technical unemployment during the period of the Covid-19 pandemic, in case of technical unemployment, guaranteeing the worker a remuneration which cannot be lower than the minimum wage (SMIG) or 70% of average net salary of the last three months. In return, companies benefit from state aid in the form of fiscal, customs and social measures and cash injections).

► South Africa

A decrease in volume of individual labour cases were detected in non-judicial institutions. Respondent institutions reported that collective labour disputes derived from mass dismissals increased in all geographical jurisdictions in Large Scale Retrenchment facilitations.

► The Gambia

Increases in volume of labour cases were detected in general. Respondent institutions reported that labour disputes derived from massive closure of enterprises and workers presented complaints in groups.

Arab States

Respondent institutions that completed this section of the Survey provided very few detailed information about their answers.⁴⁴ For this reason, specific trends in this region could have not been sufficiently assessed in respect to possible changes in the volume of labour disputes presented to these institutions. Institutions in Yemen have not reported variations in the volume of labour cases.

► Box 7: Highlights on volume of labour disputes in Arab States during the pandemic

Volume of labour disputes in Arab States during COVID-19

► Iraq

Increases in volume of labour cases have been detected in non-judicial institutions, either individually or collectively. Further information on statistical data has not been provided, also with respect to judicial institutions.

► Saudi Arabia

Increases in volume of labour cases have been detected in judicial and non-judicial institutions, either individually or collectively. Further information on statistical data has not been provided.

⁴³ 19 institutions responded to this section of the Survey in the region.

⁴⁴ 3 institutions responded to this section of the Survey in the region.

Americas

More than 50% of institutions in Americas experienced some increase in the volume of labour cases.⁴⁵ In some countries, the volume of individual labour cases increased in non-judicial institutions but decreased or remained the same in judicial institutions in the same period. In the same line, volume of collective cases in non-judicial and in judicial institutions in the same period not always followed the same trend.

Increases in individual labour disputes were reported in non-judicial institutions in Argentina, Bolivia, Brazil, Colombia, Costa Rica, Panama, Paraguay, Peru, Dominican Republic, Trinidad and Tobago and the US, however only Colombia, Mexico, Panama, Paraguay and Trinidad and Tobago reported increase also in judicial institutions.

► Box 8: Highlights on volume of labour disputes in Americas during the pandemic

Volume of labour disputes in Americas during COVID-19

► Argentina

In Argentina, ordinary or spontaneous dismissals without valid grounds and suspensions of employment contracts due to lack or reduction of work and force majeure were prohibited. However, a large number of agreements about suspensions of employment contracts and payment of wages have been concluded on the basis of a framework agreement between the employers' and trade union confederations and sectoral agreements. This explains partially why volume of labour disputes has been reduced or remained the same in judicial institutions but has increased in non-judicial ones.

► Brazil

The Superior Labour Court (Tribunal Superior do Trabalho - TST) has established a new system of pre-judicial mediation to deal with the increase of individual labour disputes caused by the pandemic (created by Resolution No 288/2021 of National Council of Justice). This system was already in place since 2016 for collective disputes. It is considered a non-judicial mechanism (Conciliation and Mediation Centres called CEJUSCs, although functioning inside judicial institutions). Requests for Pre-Procedural Complaints entered directly via electronic registrars of Labour Courts or by e-mail but were distributed to the respective CEJUSC and overseen by supervisor judge. Statistics provided by the TST show that between 2020 and the first semester of 2021, 85% of the cases treated in pre-mediation were concluded by agreements (homologations of extrajudicial agreements) against an average of 41% of cases sent to be mediated by the CEJUSCs during other procedural phases (homologation of judicial agreements). The volume of cases resolved in pre-mediation by the CEJUSCs increased 50% from 2019 to 2020. In the first semester of 2020, agreements amounted to over US\$ 1 billion.

► Mexico

Institutions experienced an uneven increase in labour disputes. Individual labour disputes increased in judicial and non-judicial institutions in all geographical jurisdictions. On the other hand, collective labour disputes increased in both judicial and non-judicial institutions, but not in every geographical jurisdiction.

► Panama

An increase in volume of labour disputes in general was reported. The closure of the enterprises, the subsequent reopening and the conditions established generated many complaints of labour rights violations. It was necessary to implement a Tripartite Dialogue Table to support collective negotiations and agreements.

► Paraguay

An increase was reported in individual labour disputes, in both types of institutions. According to respondent institutions, besides claims related to dismissals, payments of wages and suspension of employment contracts, the increase was reputed to be also a result of application of technological improvements that reduced the time and distance between the user and the public service officials. As collective cases demand a different procedure with "in person" hearings, the respondent institutions concluded that the volume has decreased because of the restrictions.

► Uruguay

An increase in volume of collective labour disputes in non-judicial institutions was reported, with particular focus on sectoral complaints, in special health sectors.

⁴⁵ 23 institutions responded to this section of the Survey in the region.

The number of individual labour disputes was reported to be increased mainly due to allegations of labour rights violations related to dismissals, redundancy and severance payments, and suspensions of employment contracts.

With respect to collective cases, at least 40% of institutions reported an increase in volume of cases presented, with special focus on non-judicial institutions. At least 55% of them reported these disputes were related to mass dismissals, compliance with collective bargaining agreements, and suspension of employment contracts.

Asia & Pacific

More than 45% of institutions in Asia & Pacific experienced some increase in the volume of labour cases.⁴⁶ Less than 10% of institutions reported a decrease in cases in general. The rest of institutions did not experience any kind of variations in this respect or could not provide any information.

► Box 9: Highlights on volume of labour disputes in Asia & Pacific during the pandemic

Volume of labour disputes in Asia & Pacific during COVID-19

► Australia

Respondent institutions reported an increase in individual labour disputes in both types of institutions at the beginning of the pandemic. However, reports stated that volume decreased after a certain time and stabilized.

► China

Institutions reported an increase of approximately 5% in individual labour cases in non-judicial institutions, and a decrease in judicial institutions. According to respondent institutions, it was not possible to assess whether the increase was related to the pandemic. Volume of collective cases did not suffer variations in non-judicial institutions but decreased in judicial institutions.

► Fiji

The decrease in the volume of labour disputes in general was reputed to be a result of restriction measures applied in the island once population were only to leave their homes for essential reasons. Most of governmental bodies and Courts remained closed.

► Malaysia

A mobile application (Working For Workers) was established to allow workers to file individual complaints directly to the Department of Labour. According to the analysis of the data received, there has been a significant increase in the volume of complaints related to teleworking issues, financial aid under the economic stimulus packages announced by the Government. In judicial institutions, increase in volume of cases was mostly related to wages, dismissals, and retrenchment. Volume of collective cases increased mainly in urban areas.

Europe & Central Asia

In Europe & Central Asia, approximately 16% of the respondent institutions reported an increase in the volume of individual labour disputes, in both types of institutions.⁴⁷ A decrease in the volume was perceived by 17% of institutions.

⁴⁶ 29 institutions responded to this section of the Survey in the region.

⁴⁷ 31 institutions responded to this section of the Survey in the region.

► **Box 10: Highlights on volume of labour disputes in Europe & Central Asia during the pandemic**

Volume of labour disputes in Europa & Central Asia during COVID-19

► **France**

Labour courts registered an increase in the stock of individual cases still to be tried, as the cessation or reduction of court activity during the first lockdown delayed the normal course of proceedings. According to the data provided, this also generated a backlog of cases, which might impact in length of trial.

► **Ireland**

The Workplace Relations Commission (WRC) reported a decline in the volume of labour disputes presented in the period. Labour Courts reported that the volume of appeals in labour disputes in general decreased in this period due largely to the decrease of decisions issued by the Workplace Relations Commission (WRC), in part because of the pending outcome of a constitutional challenge in the Supreme Court to the legislation governing its operation.

► **United Kingdom (excludes Northern Ireland)**

In non-judicial institutions (ACAS), the slight drop overall was attributed to the fall in people in the workplace due to the UK Government's Furlough scheme. However, a temporary surge occurred in cases in Autumn of 2020 when the end of the Furlough scheme was expected. In respect to collective cases, non-judicial institutions reported a dramatic fall at the start of the pandemic but a steady increase in 2021.

With respect to collective labour cases, only Bosnia reported an increase of disputes. As explained before, lack of statistics or precise information in this regard was reported in large part of the respondent institutions.

Impact on procedures

Technological improvements of procedures

Procedural rules may have suffered changes to ensure the continuation of labour proceedings and circumvent physical restrictions imposed by the pandemic.

As it was mentioned, many institutions have accelerated the use of technological solutions to ensure the continuation of services.⁴⁸ These changes might also have functioned as a catalyst for further change and innovation in the future. Other institutions had already made improvements in this respect before and used the pandemic as an opportunity to upgrade technical applications.

In 68% of the respondent institutions technological improvements enabling proceedings to be carried out remotely, either partially or fully, were already in place or have been developed to cope with the restrictions imposed by the pandemic.

In most cases, institutions made improvements to permit presentation of labour claims, documents, and evidence by post or electronically⁴⁹, and/or to carry out hearings through applications and platforms of online meetings (mainly Microsoft Teams, Cisco, Google Meet, Skype, Zoom).⁵⁰

⁴⁸ 102 institutions responded to this section of the Survey considering all regions.

⁴⁹ Examples include institutions in Bosnia and Herzegovina, Cabo Verde, Canada, Chile, China, Cook Islands, Fiji, Georgia, Guatemala, Hungary, Ireland, Japan, Luxembourg, Malaysia, New Zealand, Nicaragua, Panama, Paraguay, United Kingdom (excludes Northern Ireland).

⁵⁰ Examples include institutions in Austria, Canada, China, Colombia, Costa Rica, Fiji, Ireland, Japan, Malaysia, New Zealand.

Some of the examined institutions applied improvements enabling almost all the proceedings to be carried out fully remotely⁵¹, with positive impacts also in the enforcement phase.⁵²

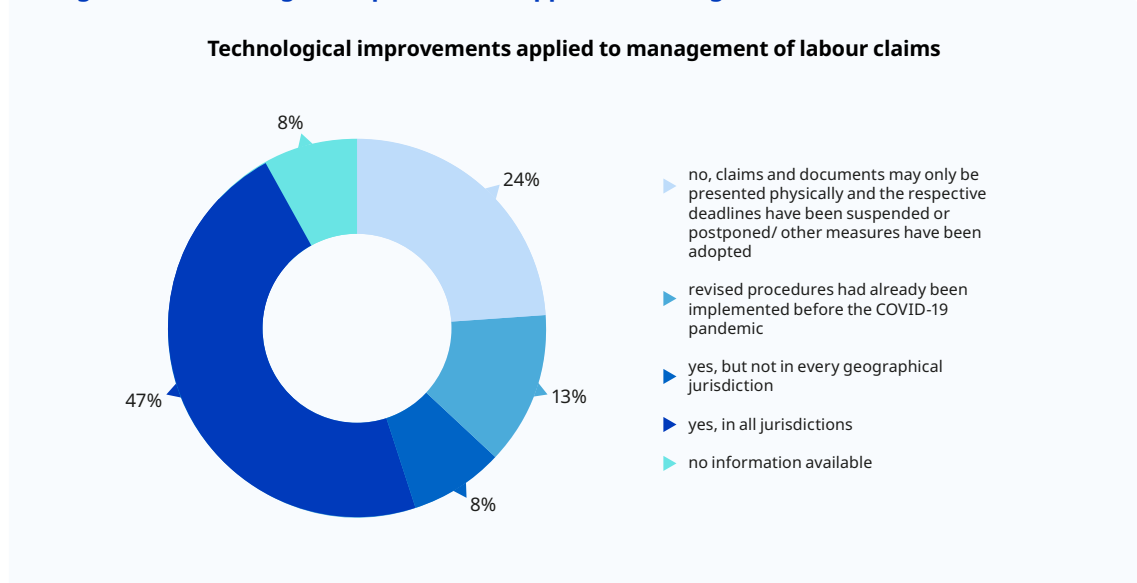
However, the pandemic has revealed that many institutions were not well equipped with technological resources to enable access to justice in situations of emergency. Information provided in this respect also stated that the lack of means to continue proceedings while physical restrictions were in place might have generated a backlog of labour cases were reported in institutions in two countries.⁵³

Many institutions reported that measures were taken to suspend procedural deadlines and postpone hearings⁵⁴, which also may have contributed to a backlog of cases.

Institutions were asked what were the reasons that may have obstructed technological advances in this regard. Most of them reported lack of infrastructure, lack of public investment and lack of access to technological tools on the side of workers and their representatives as main hurdles to such improvements.

One of the most common technological improvement reported is related to the possibility of hearings to take place virtually. As hearings are a very important step in the resolution of labour claims, either because they enable negotiations that may lead to a conciliation or due to presentation of evidence, the continuation of proceedings is likely to be delayed when hearings cannot be conducted, causing therefore a backlog of cases. Fortunately, in only 9% of the institutions, hearings have been postponed completely.

► **Figure 11: Technological improvements applied to management of labour claims**



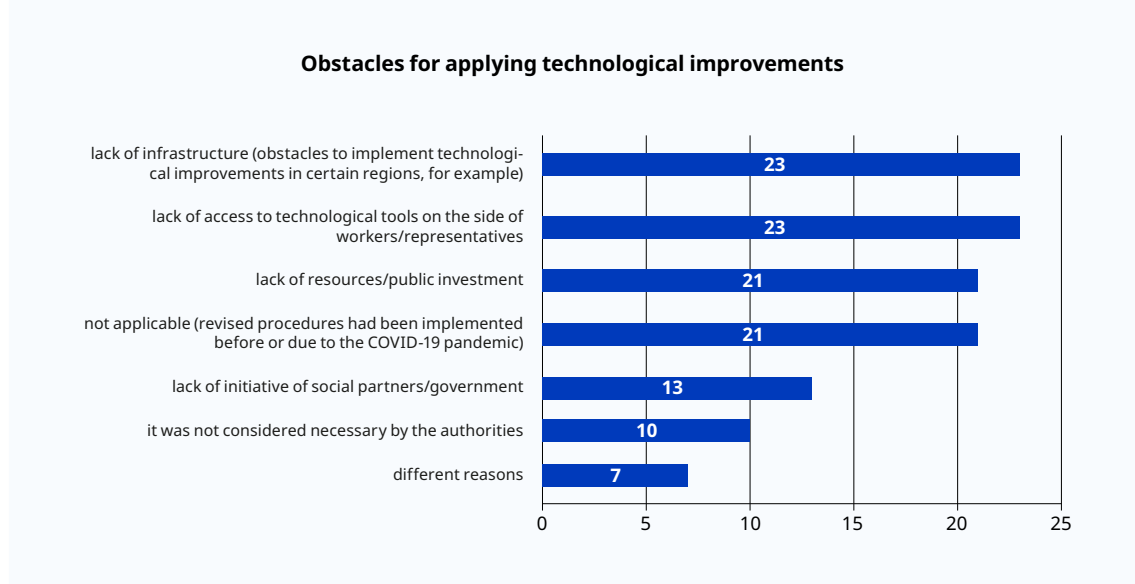
51 Examples include Australia, Brazil, Colombia, and Hungary.

52 These cases will be seen in detail further in this report.

53 Institutions in Benin and France.

54 Examples include institutions in Austria, Bolivia, Hungary, Luxembourg, and Slovenia.

► **Figure 12: Obstacles for applying technological improvements**



In 29% of the respondent institutions, virtual applications have been applied to carry out hearings without physical presence of parties. In some countries, institutions have held virtual hearings alternatively with in person hearings depending upon the rise or fall of rates of infection.⁵⁵ In some institutions, virtual or in person hearings may occur provided that the parties agreed with one or the other proceeding⁵⁶ or depending on the issue to be dealt with or the type of institution.⁵⁷

Institutions were asked to indicate which of the options below were responsible for possible lack of implementation of technological improvements that could have enabled continuation of services.

Around 25% of the institutions reported at least 2 reasons for not having applied or improved technological tools.

Data demonstrates that digitalization of procedures and online applications may help to streamline procedures in labour dispute resolution institutions, but different constraints that go beyond public investment must be addressed to guarantee full accessibility to parties involved in both rural and urban areas, particularly for those in a situation of vulnerability or risk.

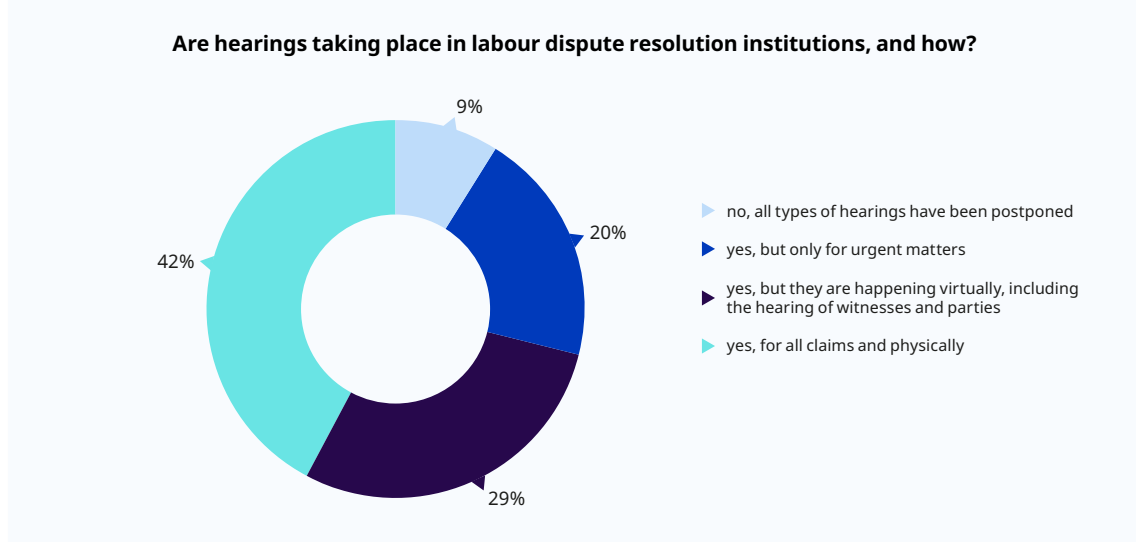
In respect of institutions that continued holding hearings with the physical presence of parties and witnesses, sanitary measures such as limitation of the number of persons present in the institutions, social distancing, use of masks and other restrictions have been in place to prevent contamination.

⁵⁵ Examples include Argentina, Chile, China, Costa Rica, Cape Verde, Georgia, Hungary, Ireland, Japan, United Kingdom (excludes Northern Ireland).

⁵⁶ Examples include institutions in Malaysia and Paraguay.

⁵⁷ Examples include institutions in Bolivia (Ministry of Labour and Judicial Courts), Philippines (Bureau of Labour Relations) and Peru.

► **Figure 13: Hearings happening during the pandemic**



Changes on procedural rules

Besides technological improvements, other changes in procedures may have been applied to better cope with the restrictions imposed by the pandemic. However, in 72% of the respondent institutions the procedures remained the same.

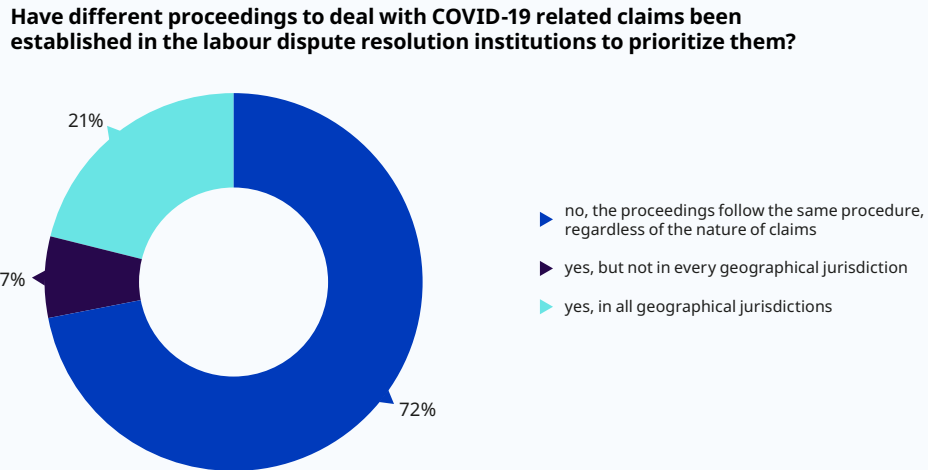
In Hungary, by creating a flexible context of procedural rules during the pandemic, judicial institutions had a wider margin of discretion in determining the most appropriate and safest way of contacting with the parties.

In New Zealand, a new Early Resolution Service has been established to manage the COVID-19 related influx of cases, including cases concerning the Wage Subsidy that was implemented by the New Zealand Government. In judicial institutions, faster proceedings were applied to COVID-19 related cases on an urgent basis and a system so that any case would be identified was also set up. Non-judicial institutions also had very broad discretion to determine their own procedures in respect of each dispute.

Similar measures to speed up the procedures in respect to COVID-19 related cases were applied in general in South America.⁵⁸ In Senegal, in judicial institutions, particular emphasis was placed on conciliation and judges tried as much as possible to get the parties to make reciprocal concessions and reach agreements.

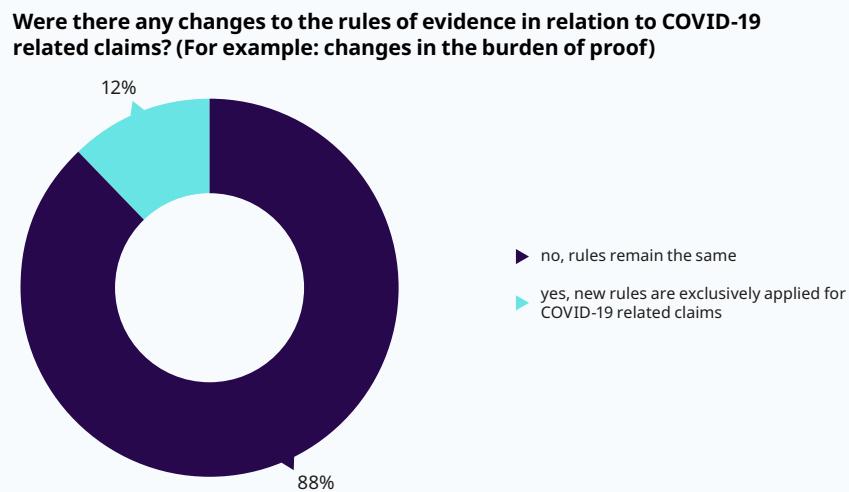
⁵⁸ Changes were reported particularly in Argentina, Brazil, Chile, Guatemala, Honduras, Panama, and Paraguay.

► **Figure 14: New procedural rules to deal with COVID-19 claims**



Nevertheless, only 12% of the respondent institutions reported that new rules have been put in place for COVID-19 related claims. In 88% of the institutions, COVID-19 related claims have been submitted to the same evidence and burden of proof rules as other types of labour claims.

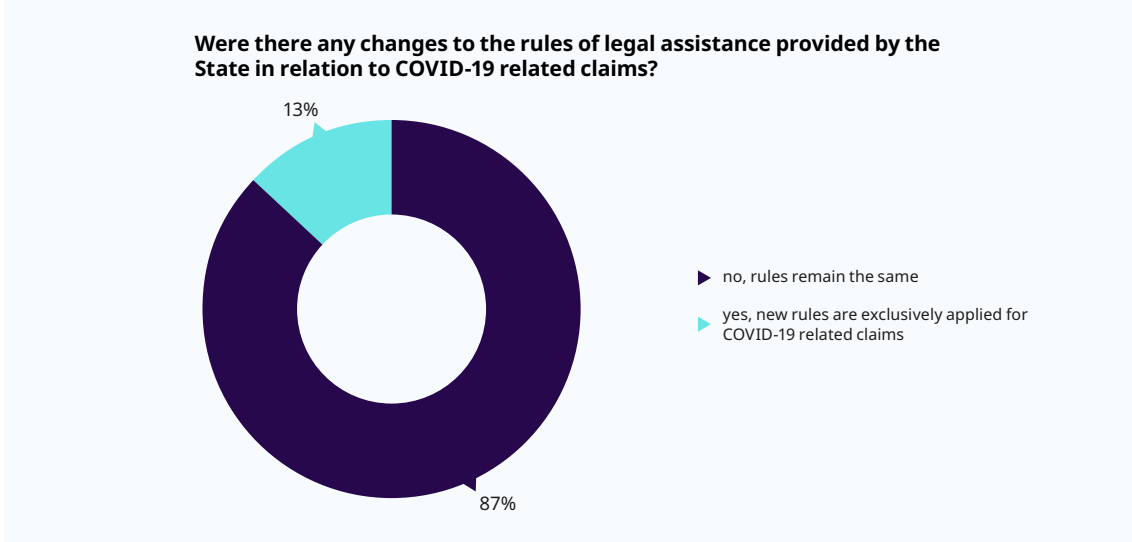
► **Figure 15: New rules of evidence and burden of proof**



Important changes in this respect were reported by institutions in Brazil and Costa Rica. In Brazil a new regulation established causal link between the contamination by COVID-19 and the workplace.⁵⁹ In Costa Rica, changes in burden of proof for COVID-19 related claims have been applied to cases involving suspension of employment contracts and reduction of working hours.

⁵⁹ Nota Técnica SEI n.º 56.376/2020/ME and Supreme Federal Court decision on ADI's 6342, 6344, 6346, 6348, 6349, 6352 and 6354, which questioned the constitutionality of Provisional Measure 927/2020.

► **Figure 16: New rules for legal aid**



An important aspect for the right of access to proceedings is the existence of judicial fees, which is treated along with the question of free justice. Eventual costs of the process for the parties may dissuade many people from requesting the services of labour courts, particularly those in a more precarious economic situation⁶⁰. In general, States count with national legislation to provide legal assistance to workers in these situations.

In most of the respondent institutions though, rules in respect to the concession of legal aid to parties have remained the same. Only in 13% of institutions, rules in respect to concession of legal aid have changed in relation to COVID-19 related claims.

Africa

In about 70% of institutions in Africa no technological improvements were reported.⁶¹ The reasons for that varied, but lack of resources or public investment and lack of infrastructure were the most mentioned⁶², followed by lack of technological tools on the side of workers/representatives.

60 Colàs-Neila, E., Yélamos-Bayarri, E. 2020. *Access to Justice: A Literature Review on Labour Courts in Europe and Latin America*; ILO Working Paper 6 (Geneva, ILO). p. 20.

61 19 institutions responded to this Section of the Survey in the region.

62 In 65% of the respondent institutions.

► **Box 11: Highlights on impact on procedures in Africa during the pandemic**

Impact on procedures of labour disputes in Africa during COVID-19

► **Cape Verde**

Respondent institutions reported an increase of requests for legal information via the Green Line, telephone and the registration of labour complaints via the institution's e-mail.

► **Lesotho**

Due to the lack of technological improvements enabling remote services (dispute resolution institutions reported to operate 100% manually), the number of disputes to be heard on a daily basis was reduced from 2 to 1 per Arbitrator. According to respondent institutions, this may have led to a serious backlog of cases as trials and hearings have been postponed.

► **Madagascar**

Due to the lack of technological improvements enabling remote services (dispute resolution institutions reported to operate 100% manually), hearings have been postponed for 1 month, renewable depending on the situation or state provisions.

► **South Africa**

Respondent institutions reported implementation of electronic referral system and enhancement of the virtual hearing facilities. However, services were delivered in hybrid model, with cases being heard virtually via Teams and Zoom and also physically.

► **Senegal**

Technological improvements had been applied before the pandemic. Institutions reported changes in burden of proof, presentation of evidence and legal assistance provided by the State for Covid-19 related claims.

However, institutions reported adoption of other measures to mitigate the effects of the pandemic, such as reduction of the frequency of hearings and postponement of proceedings, which may have led to more lengthy proceedings.

Only Senegal reported that hearings were happening 100% virtually. In 50% of the institutions, hearings took place in person and for all types of disputes. The rest limited the hearings to only urgent matters or postponed them, which may also have contributed to a backlog of cases and more lengthy proceedings.

In 23% of the institutions, there have been changes in proceedings to better deal with Covid-19 related claims.

Arab States

Respondent institutions that completed this section of the Survey provided very few detailed information about their answers.⁶³ For this reason, specific trends in this region could have not been sufficiently assessed in respect to possible changes in procedures.

⁶³ 3 institutions responded to this section of the Survey in the region.

► **Box 12: Highlights on impact on procedures in Arab States during the pandemic****Impact on procedures of labour disputes in Arab States during COVID-19**► **Iraq**

Technological improvements were not applied due to lack of infrastructure and lack of capacity of parties to access technological tools. However, institutions reported changes in burden of proof, presentation of evidence and legal assistance provided by the State for COVID-19 related cases.

► **Saudi Arabia**

The procedures of the dispute resolution during COVID-19 have been improved and 100% online, with implementation and integration of e-service with the Cisco WebEx tool (web conferencing and video conferencing tool) to allow workers, business owners, and HRSD investigators to attend the settlement sessions. Moreover, there was integration of the service with an SMS service provider to send the invitations for conciliation and mediation sessions.

Americas

In over 90% of institutions in Americas technological improvements were reported either before or as a result of the pandemic.⁶⁴ In all institutions, hearings kept happening, but in 10% of institutions only for urgent cases. In 50% of the institutions, hearings took place only virtually.

In about 60% of the institutions some type of change in the procedures was reported. Measures to speed up the procedures in respect to COVID-19 related claims were applied in general in South America.

As it was seen, improved procedures were developed in judicial institutions in Brazil, where cases presented to the Judiciary were separated and directed to a previous mediation service. According to the information provided, this have helped to reduce the number and accelerate resolution of cases distributed to these institutions. The mediation would take place virtually using any sort of telematic application possible.⁶⁵ Similar procedures took place in Chile, where documentation of the cases could have been presented to mediators by email and, in case of conciliation is reached before the hearing, procedures can be finished without any intervention of the State.

► **Box 13: Highlights on impact on procedures in Americas during the pandemic****Impact on procedures of labour disputes in Americas during COVID-19**► **Brazil**

Labour Courts were already completely digital by the time the pandemic started. New tools, however, were made available to allow hearings to be carried out remotely (including hearing of parties and witnesses) and to ensure that all steps of proceedings could be done virtually, as many members of staff were teleworking and access to facilities was severely limited. New rules of burden of proof and evidence for Covid-19 related claims were reported, in particular concerning the burden of proof to prove contamination by Covid-19 in the workplace.

► **Canada**

For Labour Boards, electronic filing was required before the pandemic. After the pandemic, all documents are to be presented in evidence electronically. For interest arbitrations a change has been the requirement to receive the written briefs in advance of the hearing. Zoom is the preferred platform due to the possibility of breakout rooms. It means the parties and witnesses can be separate in different meeting rooms. New rules of evidence presentation were reported.

► **Chile**

In non-judicial institutions, the instructions were established at national level for the remote processing of alternative dispute resolution, either in mediation (current employment relationship) or conciliation (employment relationship terminated). The services were provided by e-mail and/or through the Microsoft Teams platform. Exceptionally, some offices provided face-to-face services. Changes in documentation also were reported. The request for documentation could be made by e-mail and by the conciliator/mediator.

⁶⁴ 25 institutions responded to this section of the Survey in the region.

⁶⁵ Information provided stated that these telematic tools varied from telephone, WhatsApp calls or other virtual meeting applications, such as Zoom, Microsoft Teams, Google Meet, Cisco WebEx, etc.

In El Salvador, coordination between the Supreme Court of Justice and the Ministry of Labour enabled the creation of the Electronic Notification System of the Ministry of Labour and Social Security offices throughout the country.

In Bolivia, internal mechanisms have been established for the priority attention of complaints related to violation of labour rights that could emerge from the pandemic. However, no technological improvement was reported.

In Venezuela, online procedures were put in place that allowed parties to submit their petitions within the legal time limits. However, other proceedings that required physical presence of parties followed the rotation scheme of 5 days with the institutions open and 5 days with institutions completely closed to the public.

Asia & Pacific

In almost 75% of institutions in Asia & Pacific technological improvements were reported, either before or due to the pandemic, but in only 16,5% of them hearings were taking place virtually. In 50% of the institutions, hearings took place physically and for all matters.⁶⁶

At least 15% of the institutions reported changes in procedural rules to prioritize COVID-19 related claims and less than 10% reported any change in evidence rules or legal assistance.

► Box 14: Highlights on impact on procedures of labour disputes in Asia & Pacific during the pandemic

Impact on procedures of labour disputes in Asia & Pacific during COVID-19

► Australia

Respondent institutions reported that hearings started to be carried out virtually. Before the pandemic, online systems were already in place, but have been improved.

► China

Respondent reported that the changes were accelerated by COVID-19 pandemic, including technological improvements to file labour claims, to register related documents or applications electronically and implementation of information technology systems to manage proceedings online. Some provinces adopted some of the above-mentioned measures before, but most of them applied them due to the pandemic. During the pandemic, hearings were taking place in labour dispute resolution institutions virtually. After restriction measures were relaxed, started taking place in both ways, virtually and physically. New rules to present evidence or in respect to burden of proof were reported.

► Japan

Depending upon the institution, revised procedures were already in place before the pandemic (such as submitting applications or documents by mail or e-mail) or were adapted during the sanitary crisis (such as online platforms for hearings). In judicial institutions (district courts) in some geographical jurisdictions the use web conferencing tools for hearings in "Labour tribunal proceedings" was widespread. Hearings could be postponed or handled online, by telephone, or in-person, depending on the applicant's preference.

► New Zealand

In non-judicial institutions, the ability to lodge mediation case applications and documents online was available pre-COVID. New virtual ways of attending mediation have been implemented in response to the pandemic - this includes attending mediation via teleconference or videoconference (Zoom). Moreover, a new Early Resolution Service has been established to manage the COVID-19 related influx of cases, including cases concerning the Wage Subsidy that was implemented by the New Zealand Government.

In judicial institutions, improvements such as electronic filing of claims, virtual meetings and telephone conferences were applied, as well as preference for exchanged of pleas in paper. Each Judge and Court support staff were provided with equipment to enable them to work from home and to continue to conduct telephone conferences and progress cases as appropriate. However, it was reported that several procedures that were not urgent were postponed. A campaign of awareness was reported to make social actors and parties aware about the available channels to present labour claims. Full court hearings to deal with COVID-19 matters on an urgent basis were prioritized and a system so that any COVID-19 related case would be identified was established.

⁶⁶ 25 institutions responded to this section of the Survey in the region.

Europe & Central Asia

In Europe & Central Asia, approximately 71% of institutions that responded to the Survey reported that technological improvements were applied, either before or due to the pandemic. Despite that, only 35% of the institutions reported carrying out hearings fully virtually.⁶⁷

In 95% of institutions, no changes in evidence rules or legal assistance were reported. Very few institutions reported changes in this respect, but further detail has not been provided.

Aiming at deal with the physical restrictions imposed, Austria and Luxembourg reported suspension of legal deadlines in judicial institutions during the pandemic.

► Box 15: Highlights on impact on procedures of labour disputes in Europe & Central Asia during the pandemic

Impact on procedures of labour disputes in Europe & Central Asia during COVID-19

► Hungary

In judicial institutions remote hearings were applied via the Skype for Business application operated by the central administrative body of the judiciary (National Office for the Judiciary). The "Via Video system" had already been established before the pandemic introducing a closed-circuit television (CCTV) system between different courtrooms and other endpoints within the country, but it was also suitable for cross-border videoconferencing. The system enabled the courts to carry out remote interviews and to produce video and sound recordings of the courtrooms. Late April 2020, the Via Video system was also enabled to provide a framework for remote hearings for participants joining with their own devices through a web link sent by the court. Thereby, only the judge had to appear in the court building where the endpoint is located, other participants of the conference call could choose their location.

► Ireland

The Labour Court applied technological advances to facilitate e-based filing and submissions and creation of virtual Court room using Webex technology. Cases commenced to be heard in a virtual setting in April 2020. A combination of physical and virtual court rooms started to be used to maintain output.

► Turkey

During the pandemic, an online system facility which allows the parties to make mediation applications for all kind of disputes including labour disputes online started to be applied in March 2020.

► Sweden

An information technology system to manage proceedings online was established in Labour Courts.

Practice and operation

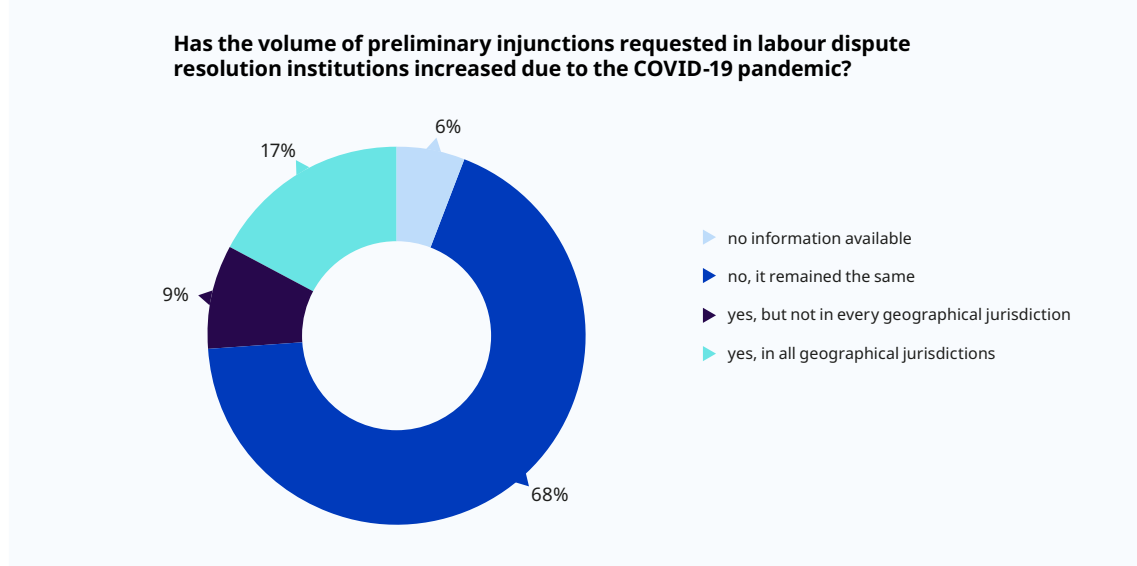
Preliminary injunctions

Prior to the presentation of a statement of claim or petition to initiate a labour claim, parties can present requests for preliminary injunctions (or precautionary measures), possibly related to reinstatement of workers, seizure or secure of assets and evidence, or anticipation of final decisions, in case this anticipation is justified to avoid an irreparable damage or future violation of a right. These measures are an essential procedural law institution, since they often have a direct impact on the effectiveness of the future judgment.⁶⁸

⁶⁷ 30 institutions responded to this section of the Survey in the region.

⁶⁸ Colàs-Neila , E., Yélamos-Bayarri , E. 2020. p. 26.

► **Figure 17: Increase in volume of preliminary injunctions**



The Survey questioned participant institutions in respect to a possible increase in the number of these requests, vis-à-vis mass dismissals, closure of enterprises and allegations of labour rights violations during the pandemic.⁶⁹

In 26% of institutions, an increase in preliminary injunctions were reported. Almost half of these institutions (45%) were in Americas.

Enforcement of decisions

The enforcement is the ultimate and final step to ensure the compliance with dispute resolution institution's decisions or awards. As many institutions remained closed or restricted their activities to urgent matters, and others tried to carry out them via online tools, enforcement of decisions may have suffered an impact because of the pandemic, in particular when they involve monetary claims and possible seizure of assets or money. Lack of speedy procedures for enforcement poses a serious challenge to the very purpose of a dispute resolution system and may significantly discourage access.⁷⁰

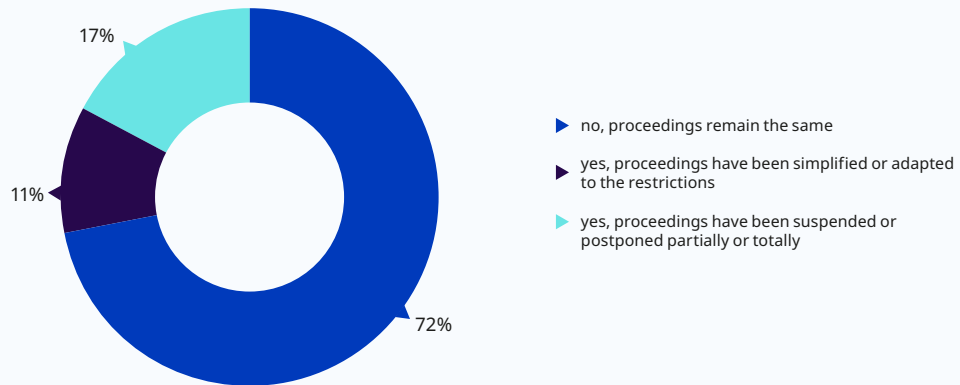
Most of the respondent institutions (72%) have declared they did not change any enforcement procedures to alleviate the restrictions imposed by the pandemic. Moreover, 17% of institutions reported that procedures have been completely suspended or postponed due such restrictions. Only 11% of institutions reported simplified or adapted proceedings to enable measures to guarantee the enforcement of decisions, particularly aiming at accelerating procedures, fully or partially, online.

⁶⁹ 102 institutions responded to this section of the Survey considering all regions.

⁷⁰ Ebisui, M.; Conney, S.; Fenwick, C.: *Resolving individual labour disputes: a comparative overview* / edited by Minawa Ebisui, Sean Cooney, Colin Fenwick; International Labour Office. - Geneva: ILO, 2016. p. 29.

► **Figure 18: Changes in enforcement procedures**

Have the procedures for enforcing judicial decisions or settlements been changed due to the COVID-19 pandemic?



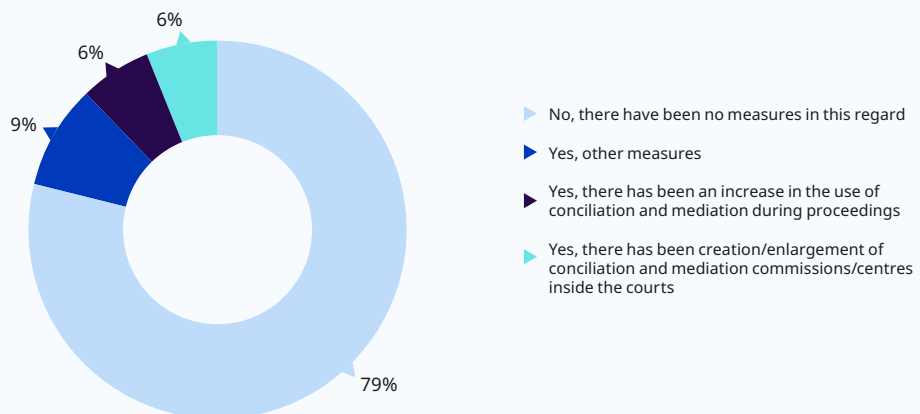
Additional strategies to deal with COVID-19 related cases in judicial institutions

In many countries, judicial institutions bear large part of labour disputes. In these institutions, which have the power to provide final decisions and carry out procedures to enforce them, additional measures may have been taken to mitigate the increase of labour cases arising from Covid-19.

According to the Survey results, 21% of the respondent institutions have adopted additional measures to deal with Covid-19 related cases, either due to the increase of labour disputes presented or because of the specific topics discussed (mass dismissals, suspension of employment contracts, occupational health & safety). These measures focused mainly on enhancement of alternative dispute resolution mechanisms, such as conciliation and/or mediation services.

► **Figure 19: Additional measures to deal with Covid-19 related claims in judicial institutions**

Have judicial labour dispute resolutions institutions implemented other measures to alleviate/deal with the volume of claims presented due to COVID-19 pandemic?



Africa

In 30% of institutions in Africa changes in enforcement procedures or suspension/postponement were reported. In almost 50% of them, an increase in the volume of preliminary injunctions were also reported.⁷¹

► Box 16: Highlights on impact on practice and operation of labour disputes in Africa during the pandemic

Impact on practice and operation of labour disputes institutions in Africa during COVID-19

► Senegal

Institutions reported that changes in enforcement procedures to make them simplified and faster and an increase in the use of conciliation and mediation during proceedings in judicial institutions. An increase in the volume of preliminary injunctions was also detected as any dismissal other than for gross misconduct by the worker is null and void, according to Ordinance No. 001/2020.

Americas

In 21% of institutions in Americas, enforcement procedures have been simplified or adapted.⁷² In only 17% of them procedures were completely suspended or postponed and in 65% of the institutions no change in this respect were reported.

In 43% of institutions the volume of preliminary injunctions was increased. In 30% of them, new measures to alleviate/deal with the volume of claims presented due to COVID-19 pandemic in judicial institutions were also applied

► Box 17: Highlights on impact on practice and operation of labour disputes in Americas during the pandemic

Impact on practice and operation of labour disputes in Americas during COVID-19

► Brazil

Judicial institutions reported enforcement procedures were adapted to mitigate the effect of physical restrictions due to the pandemic. In case no voluntary payment is not done, in respect to monetary claims, an online system interconnected with bank institutions (Sisbajud via Central Bank), land and property notary offices (Infojud), and other governmental agencies (Renajud) was improved to speed up the process of seizure of assets and money. Bailiffs would work also through the same system, but specific situations in which in person activities were necessary was reported on rare basis. Another system put in place is Garimpo (Mining), by which remaining deposits made by the same employer in other lawsuits are transferred automatically as partial deposits to other pending cases in enforcement phase. As it was seen before, pre-mediation was established to deal with the increase of labour disputes before they are properly registered as lawsuits in judicial institutions.

► Panama

As a measure to prevent and deal with labour disputes, a Tripartite Dialogue Table for the safe return of companies, creation of new conciliation rooms, adaptation of new mediation sites, and creation of exclusive platforms for these cases were among the measures taken by judicial institutions. The respondent institutions also reported an increase in volume of preliminary injunctions in all aspects.

⁷¹ 18 institutions responded to this section of the Survey in the region.

⁷² 26 institutions responded to this section of the Survey in the region.

Arab States

In Arab States, one institution reported that enforcement procedures have been changed to simplify and speed up enforcement.⁷³

In 2 institutions the volume of preliminary injunctions was increased. No report was made on measures to alleviate/deal with the volume of claims presented due to COVID-19 pandemic in judicial institutions.

Asia & Pacific

In 13% of institutions in Asia and Pacific, enforcement procedures have been completely suspended or postponed and only institutions in Australia reported changes in procedures to simplify and speed up enforcement, as they started to be dealt online.⁷⁴

In almost 15% of institutions the volume of preliminary injunctions was increased. In 22% of them, new measures to alleviate/deal with the volume of claims presented due to COVID-19 pandemic in judicial institutions were also applied.

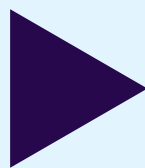
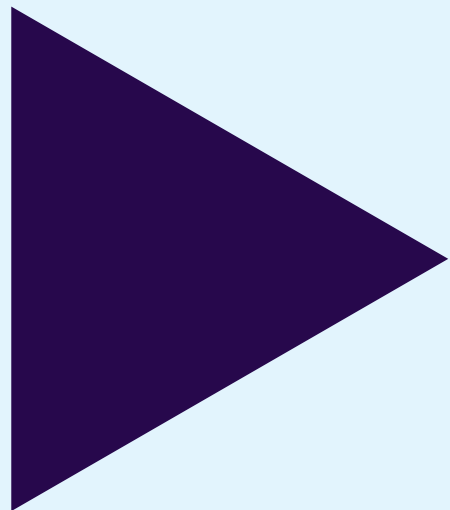
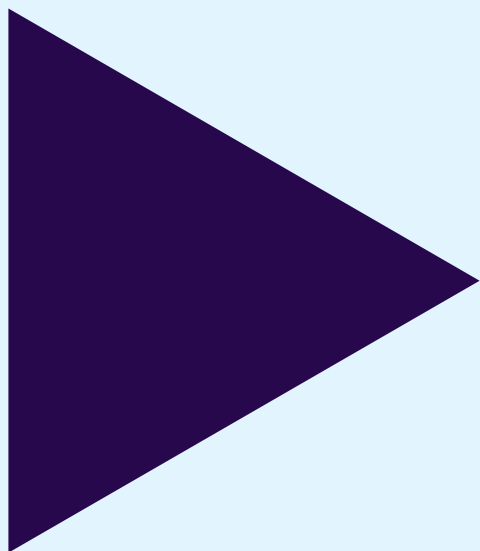
Europe & Central Asia

In Europe & Central Asia, approximately 21% of institutions that responded to the Survey reported that enforcement procedures have been completely suspended or postponed.⁷⁵ Only 3% of them reported increases in volume of preliminary injunctions and adoption of new measures to alleviate/deal with the volume of claims presented due to COVID-19 pandemic in judicial institutions.

73 3 institutions responded to this section of the Survey in the region.

74 25 institutions responded to this section of the Survey in the region.

75 30 institutions responded to this section of the Survey in the region.



► Final considerations

The effects of the Covid-19 pandemic have been impacting labour disputes resolution institutions all over the world. The Survey has shown that this impact has been felt sometimes unevenly in different regions or even within the same region due to the capacity of institutions to continue providing services to interested parties despite the restrictions imposed.

Although most of the institutions have remained open, either partially or fully, the continuation of services may have been disturbed because of physical restrictions. Staff of institutions had to work remotely or being reduced on site to work in rotation basis to avoid contamination. To mitigate these effects, many were the institutions to apply technological tools, which have had a positive impact, but may also have shown limitations to accessing these means.

The environment changed rapidly during the pandemic and measures were adopted considering what seemed urgent at a certain point. Institutions across the same regions adopted different measures as countries went through different stages in the pandemic, in particular after the end of lockdowns.⁷⁶

The results of this Survey corroborate the conclusions of other studies on how coronavirus disease (COVID-19) pandemic has affected the functioning of judicial systems.⁷⁷ As well as which practices adopted by judicial institutions aimed at lowering the barriers imposed by the pandemic to access justice from a people-centred perspective.⁷⁸

Lack of statistical data was common feature to almost all respondent institutions. Although, as expected, Covid-19 pandemic caused an increase in the volume of labour disputes, the absence of comparative data is not an advent of the crisis. The ILO had already alerted that indicators of system performance are neither universally present nor necessarily comparable among Member States.⁷⁹

Despite the lack of precise statistical data in some institutions, almost 26% of them detected an increase in volume of cases in judicial and non-judicial mechanisms with respect to individual and collective disputes. Africa and Americas were responsible for more than half of the institutions that reported increases in the volume of labour disputes presented. Also, individual disputes seem to have increased in a more perceived path, as about 32,5% of institutions that responded the Survey (judicial and non-judicial) pointed that.

However, some institutions reported a decrease in the volume of labour disputes presented, particularly concerning collective cases. Reasons for that varied, but a common mention was the fact that closure of institutions, even if partially, did not favour resolution of collective disputes, which in general benefit from in person meetings and negotiations.

An increase in labour disputes, combined with the need to keep providing services to the public, were addressed through changes in procedures in several respondent institutions. As it was seen, technological

76 OSCE: The functioning of courts in the Covid-19 pandemic. p. 9.

77 UNODC: Ensuring Access to Justice in the Context of COVID-19. Guidance Note. Available in https://www.unodc.org/documents/Advocacy-Section/Ensuring_Access_to_Justice_in_the_Context_of_COVID-191.pdf and United Nations Office of High Commissioner for Human Rights: *Impact and challenges of the coronavirus disease (COVID-19) pandemic for independent justice: report*. 9 April 2021. The Special Rapporteur on the independence of judges and lawyers. HRC 47th Session. Available in <https://www.ohchr.org/EN/Issues/Judiciary/Pages/COVID19report.aspx>

78 Pollard, M., Laronche M. and Grande, V., *COVID-19 Symposium: The Courts and Coronavirus (Parts I and II)*, OpinioJuris.org, 3 April 2020. Available in <http://opiniojuris.org/2020/04/03/Covid-19-symposium-the-courts-and-coronavirus-part-ii/> and OECD: Access to justice and the COVID-19 pandemic: Compendium of Country Practices. 25 September 2020. Available in <https://www.oecd.org/governance/global-roundtables-access-to-justice/access-to-justice-compendium-of-country-practices.pdf>

79 Ebisui, M., Cooney, S.; Fenwick, C. 2016: *Resolving individual labour disputes: a comparative overview*. p. 4.

improvements to permit remote filing and management of cases, and virtual hearings were applied or improved in a number of institutions.

However, technological tools were distributed unevenly. While about 90% of institutions in Americas and more than 75% in Europe & Central Asia have applied such improvements, over 70% of institutions in Africa have not applied any. The reasons attributed varied from lack of resources or public investment and lack of infrastructure to lack of technological tools on the side of workers/representatives, such as access to internet and computers.

Technological improvements not always included virtual hearings or were enough to enable the continuation of all proceedings. Hearings happened exclusively online in only 29% of the institutions, although improvements were reported in 68% of institutions in average.

On one hand, streamlining, improving and simplifying procedures for presentation and managing of cases may enlarge the reach of labour dispute resolution institutions and expand the access to justice, as distances are shortened, and facilities do not need to be physical to be accessed. On the other hand, IT tools and internet may not be easily accessed by many workers and their representatives as well as businesses, possibly excluding them from reaching these institutions and inhibiting their will or ability to make a claim or present a case. Promoting wide access to digital technologies as well as building digital competences is thus key to access justice.

The lack of technological improvements to deal with labour disputes during the pandemic was also reputed as a main reason for a growing backlog of labour cases in some of the respondent institutions.

In this respect, almost 60% of the institutions that reported not having applied any technological tool to enable remote presentation of labour cases also reported that either they did not perceive an increase in the volume of labour cases presented or did not have information available in this respect.⁸⁰ On the other hand, about 40% of the institutions that reported technological advances also reported changes in the volume of labour cases presented.⁸¹

The lack of application of technological tools may be linked to the lack of statistics on changes in the volume of labour cases. If the volume remained the same, it might be due to the impossibility to present the case or not necessarily because disputes have not arisen.

About 28% of institutions declared they introduced changes in their procedural rules to better cope with effects of the pandemic, but less than half of these same institutions actually reported that changes aimed at speeding up or improving the procedures.

Enforcement procedures seem to have been unaffected, only 11% of institutions acted to simplify or improve their procedures in this respect. Most of the institutions either did not suffer any changes and the minority (17%) suspended or postponed the enforcement of decisions and awards. This might have delayed the compliance not only with decisions issued in the course of the pandemic, but also with previous judgements once restrictions imposed might have barred several acts.

Another important data brought by the Survey is that 26% of institutions received more preliminary injunctions to avoid an irreparable damage or future violation of a right. Important to highlight that almost half of these institutions were in Americas⁸².

Lastly, 21% of the judicial institutions reported that measures to deal with the volume of labour cases in judicial institutions. In only 12% of the institutions, these measures were to enhance and stimulate

⁸⁰ Only 30 of 112 respondent institutions indicated they did not apply technological tools of any sort and claims and documents are only presented physically.

⁸¹ 69 of 112 respondent institutions indicated they perceived a change in the volume of labour cases presented.

⁸² Exclusively in Latin America & Caribbean (Argentina, Brazil, Bolivia, Colombia, Dominican Republic, Paraguay, Peru, Venezuela, and Trinidad & Tobago). 11 Institutions in the region reported an increase in this respect.

alternative dispute resolution mechanisms, even considering that an average increase of 23% in the volume of individual labour disputes and 16% in respect to collective disputes.

The overall results show that challenges imposed by the COVID-19 pandemic to these institutions must be addressed in line with key principles of good governance of the labour dispute resolution mechanisms, particularly with respect to issues related to broad accessibility, equity and inclusiveness, efficiency of institutions and effectiveness of their procedures⁸³, considering a more human-centred approach⁸⁴.

Where effective, labour dispute resolution mechanisms contribute to the achievement of several Sustainable Development Goals: aiming access to justice (SDG 16)⁸⁵ and achieving sustainable economic growth, full and productive employment, and decent work (SDG8)⁸⁶. As such, SDG Target 16.3 aims the “promotion of the rule of law at the national and international levels and ensuring equal access to justice for all”, including about prevention and resolution of labour disputes, that can support the achievement of SDG Targets 8.1, 8.3, 8.8⁸⁷ and the Decent Work Agenda more broadly.

The Covid-19 crisis ‘impact on labour disputes resolution institutions is likely to stay longer than expected, especially regarding opportunities and challenges with respect to digitalization of proceedings, uneven access to technological tools and lack of statistical data. This report is a first assessment on the consequences posed by the pandemic to these institutions and further research must be developed to improve access to justice, and the efficiency and effectiveness of labour dispute resolution institutions.

83 ILO: *Labour Disputes Systems: Guidelines for improved performance*, International Training Centre, Turin, 2013. p. 34-37.

84 ILO: *Global call to action for a human-centred recovery from COVID-19 crisis that is inclusive, sustainable and resilient*. p. 7.

85 Goal 16: Promote just, peaceful and inclusive societies. Available in <https://www.un.org/sustainabledevelopment/peace-justice/>.

86 Goal 8: Promote inclusive and sustainable economic growth, employment and decent work for all. Available in <https://www.un.org/sustainabledevelopment/economic-growth/>.

87 Target 8.1: Sustain per capita economic growth in accordance with national circumstances and, in particular, at least 7 per cent gross domestic product growth per annum in the least developed countries. Target 8.2: Achieve higher levels of economic productivity through diversification, technological upgrading and innovation, including through a focus on high-value added and labour-intensive sectors. Target 8.8: Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment.

► References

- Colàs-Neila, E., Yélamos-Bayarri, E. 2020. *Access to Justice: A Literature Review on Labour Courts in Europe and Latin America*: ILO Working Paper 6, (Geneva, ILO).
- Ebisui, M., Cooney, S.; Fenwick, C. 2016: *Resolving individual labour disputes: a comparative overview / edited by Minawa Ebisui, Sean Cooney, Colin Fenwick*; International Labour Office (Geneva, ILO).
- Global call to action for a human-centred recovery from COVID-19 crisis that is inclusive, sustainable and resilient, adopted during the 109th International Labour Conference, 17 June 2021. Available in https://www.ilo.org/ilc/ILCSessions/109/reports/texts-adopted/WCMS_806092/lang--en/index.htm
- ILO Centenary Declaration for the Future of Work. Available in <https://www.ilo.org/global/about-the-ilo/mission-and-objectives/centenary-declaration/lang--en/index.htm>
- ILO: *Labour Disputes Systems: Guidelines for improved performance*, International Training Centre, Turin, 2013. Available in <https://www.ilo.org/ifpdial/areas-of-work/labour-dispute/lang--en/index.htm>
- ILO, Preview of the Programme and Budget proposals for 2022–23, Governing Body, 340th Session, Second item on the agenda, Outcome 1.4, Geneva, October–November 2020. Available in https://www.ilo.org/gb/GBSessions/GB340/pfa/WCMS_757879/lang--en/index.htm
- ILO Standards and COVID-19 (coronavirus). Key provisions of international labour standards relevant to the COVID-19 pandemic and recovery, and guidance from the Committee of Experts on the Application of Conventions and Recommendations. Available in https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_780445.pdf
- Pollard, M., Laronche M. and Grande, V., *COVID-19 Symposium: The Courts and Coronavirus (Parts I and II)*, OpinioJuris.org, 3 April 2020. Available in <http://opiniojuris.org/2020/04/03/Covid-19-symposium-the-courts-and-coronavirus-part-ii/>
- OECD: Access to justice and the COVID-19 pandemic: Compendium of Country Practices. 25 September 2020. Available in <https://www.oecd.org/governance/global-roundtables-access-to-justice/access-to-justice-compendium-of-country-practices.pdf>.
- OSCE: The functioning of courts in the Covid-19 pandemic. Available in <https://www.osce.org/files/f/documents/5/5/469170.pdf>.
- Society for Computers and Law. Remote Courts Worldwide. Available in <https://remotecourts.org/>
- United Nations Office of High Commissioner for Human Rights: *Impact and challenges of the coronavirus disease (COVID-19) pandemic for independent justice: report*. 9 April 2021. The Special Rapporteur on the independence of judges and lawyers. HRC 47th Session. Available in <https://www.ohchr.org/EN/Issues/Judiciary/Pages/COVID19report.aspx>
- United Nations Sustainable Development Goals. Available in <https://www.un.org/sustainabledevelopment>
- UNODC: Ensuring Access to Justice in the Context of COVID-19. Guidance Note. Available in https://www.unodc.org/documents/Advocacy-Section/Ensuring_Access_to_Justice_in_the_Context_of_COVID-191.pdf.

