

# Labour Markets Are the New Frontier for Competition Policy

# “Current Trends in Competition Law 2024”

21 May 2024, Bratislava

## 13:00-14:30 Labour Markets and Cartel Agreements

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# ARE LABOUR MARKETS COMPETITIVE?



## No, perfect labour markets don't really exist

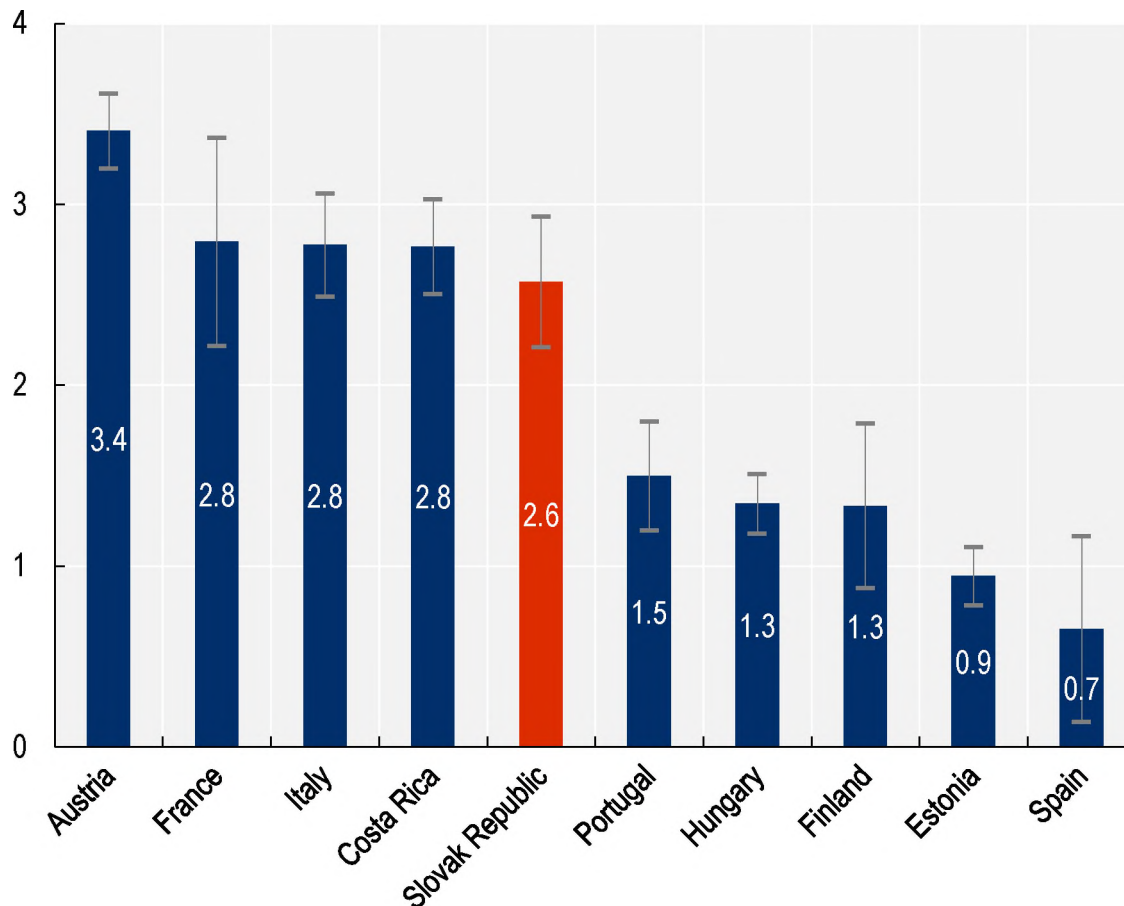
- In a **perfect** labour market, the firm cannot unilaterally set wages below the market rate
- In reality...
  - Labour markets have “frictions” which cause low labour mobility
  - The number of firms offering particular jobs is limited
- Limited market competition gives rise to **buyer/monopsony power**





# Evidence of monopsony power in the labour market

Labour supply elasticity to the individual firm



- OECD (2021) estimated own-firm/residual labour supply elasticities, i.e.  $(\Delta \text{Labour Supply} / \Delta \text{Wage})$  at a particular firm
  - Slovakia's LSE is estimated at 2.6, implying that the wage is marked down by 28% from the competitive ideal
- Another indirect evidence: minimum wage





# Economic costs of labour market monopsony

- Monopsony results in **economic inefficiencies**
  - OECD (2022): Employer concentration lowers **job qualities**
  - Lehr (2023): Monopsony is stronger with larger firms, slows down **innovation**, and is estimated to decrease **growth** in the United States by 15%, which would come via R&D productivity
  - U.S. FTC (2024) estimates banning non-competes would boost **entrepreneurship** by 2.7% and **patents** by 11-19% per annum



Illustration by Peter and Maria Hoey, *Harvard Magazine* (March-April 2019)



# WHAT DOES LABOUR MARKET MONOPSONY LOOK LIKE?



# Collusive buyer cartel agreements unambiguously and unequivocally reduce labour mobility

- Wage-fixing, non-poaching, non-solicitation, exchange of sensitive information about workers, etc.
- Collusion does not always happen with competitors in the product market (e.g. U.S. vs eBay, Inc. and Intuit)



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Antitrust Guidance For Human Resource Professionals:  
Department of Justice Antitrust Division and Federal Trade  
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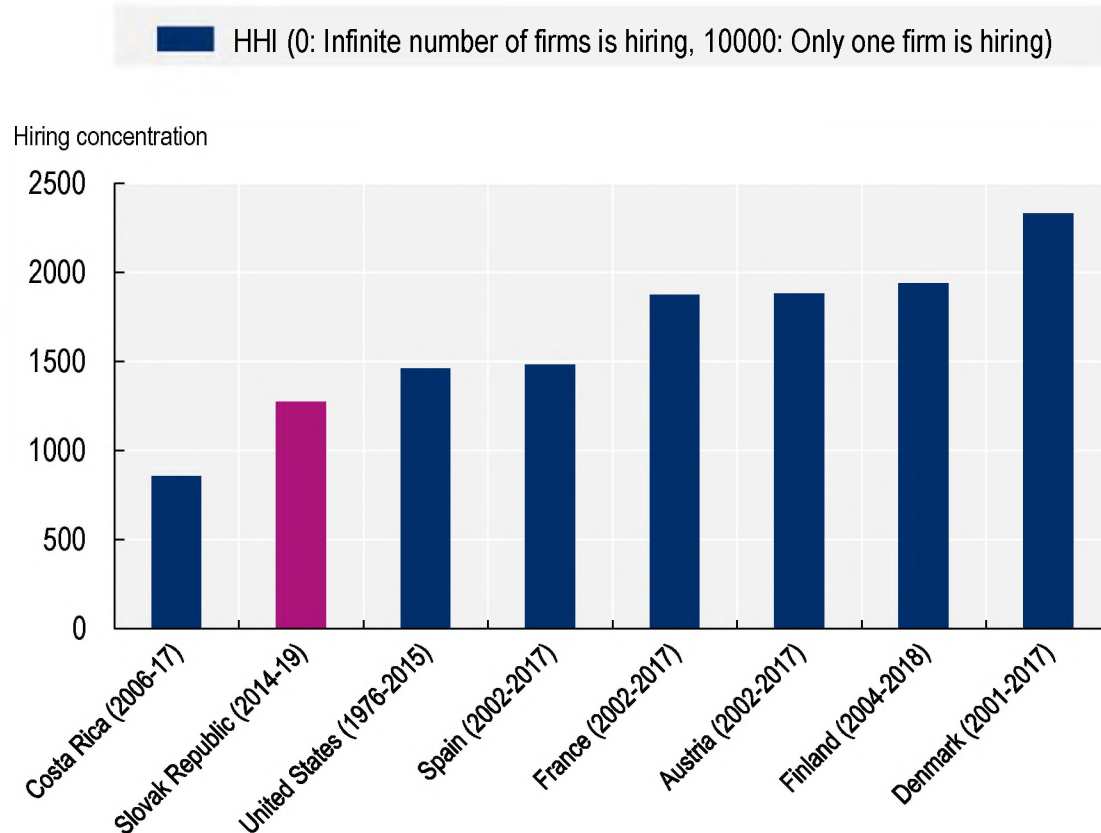
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**Enforcement Guidelines on wage-fixing and no poaching  
agreements**

May 30, 2023

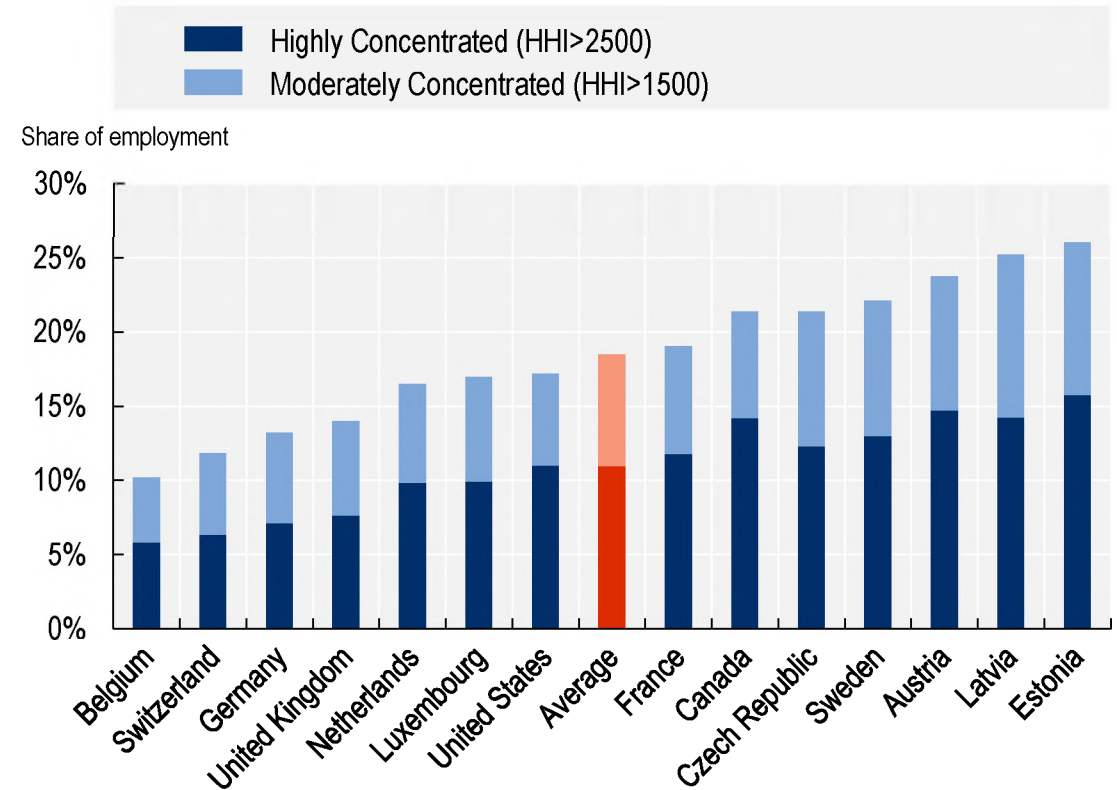


# Employer concentration gives fewer options to jobseekers and more power to employers



Note: Based on national administrative data. Local labour markets are defined by industries and regions.

Source: OECD. (2021). *The Role of Firms in Wage Inequality: Policy Lessons from a Large Scale Cross-Country Study*. <https://doi.org/10.1787/7d9b2208-en>



Note: Based on online vacancy data. Local labour markets are defined by occupations and regions in 2019.

Source: OECD. (2022). "Chapter 3. Monopsony and concentration in the labour market." *OECD Employment Outlook 2022*. <https://doi.org/10.1787/1bb305a6-en>





# Restrictive employment contract clauses may be used by employers beyond reason

- Some **non-compete agreements (NCAs)** have questionable economic rationales
  - USA: 18% (U.S. Treasury, 2015)
  - NDL: 18.9% (Streefkerk *et al.*, 2015)
  - ITA: 16% (Boeri *et al.*, 2022)
  - **Why low-wage earners?**
- **Salary secrecy** prohibits employees from discussing compensations
- The non-enforceability of these clauses does NOT rule out an *in terrorem* (or “chilling”) effect





# POLICY DISCUSSIONS



# Competition authorities can play a significant role in monitoring and addressing labour market monopsony

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- There is every economic rationale for competition authorities to tackling monopsony in the labour market
- Collusive buyer cartel agreements should be “by object” prohibited, as some authorities have already done so
  - Restricting labour market mobility results in low competition
- Market concentration can happen to labour markets too
  - Some horizontal mergers may not harm consumers but can still deteriorate hiring/employment competition in labour markets
  - Concentration is **NOT** the only source of labour market power
- There is a selection bias in the existing evidence
  - High-tech workers and medical staff often show up in court cases
  - Low-wage workers (whose skills are often not specific), rural workers, outsourced workers, “freelancers” are less likely to be heard or supported



## OECD is working on the collection of evidence on monopsony problems in the labour market

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- There is growing concern that restrictive employment contract clauses are being used to unduly restrict labour mobility
- **OECD is now considering a new project** “*Towards a more dynamic economy: assessing the prevalence and impact of worker restraint clauses in OECD countries*” to collect data on non-compete, non-disclosure, non-poaching by surveying workers and firms.
  - **7 countries** (Canada, France, Germany, Japan, Korea, Mexico, Spain) have so far expressed interest in joining the project
- **On 18 June 2024, OECD will hold an online webinar** for competition authorities to discuss the issue (invitations incoming)



# Thank you

Find out more:

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