

**DIARIO  
OECD ERC Survey**

November 26, 2025

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## **1 Suggestions and Ideas**

## 2 Incidence by Type of Worker

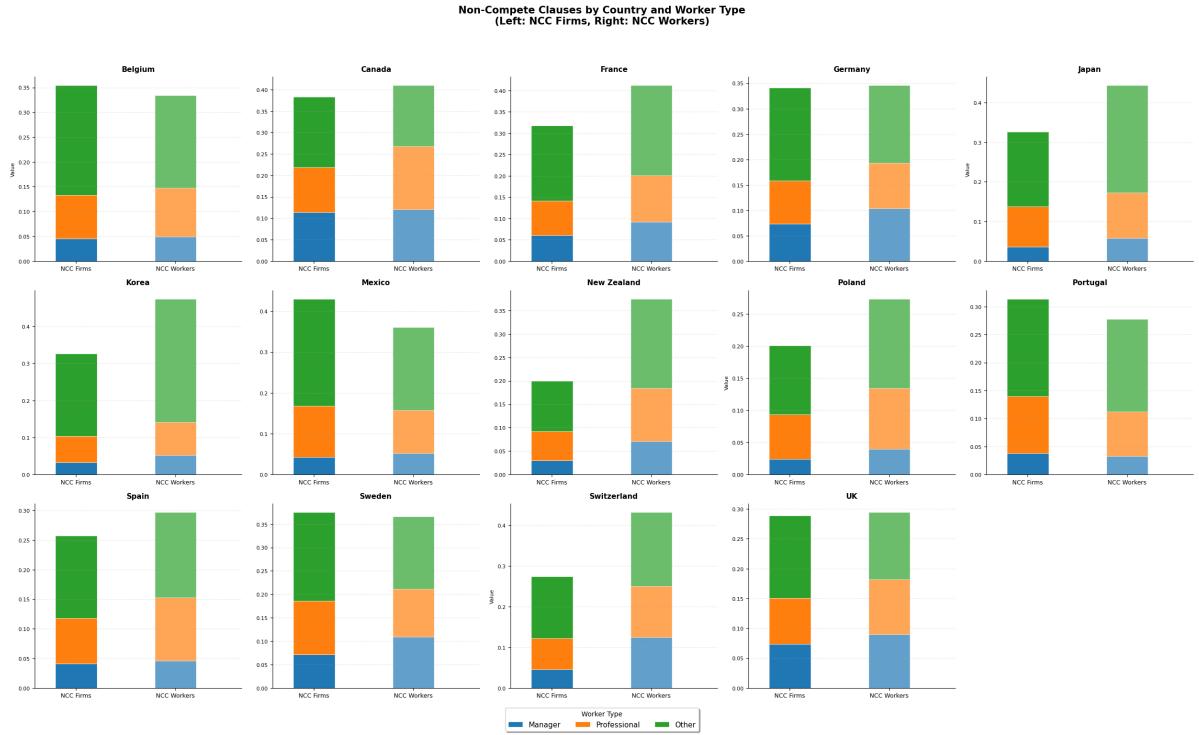


Figure 1: Non-compete clauses by worker type

Considering the countries with the larger mismatch between worker and firm's incidence, for **Japan**, **Korea**, **New Zealand**, and **Poland** it seems that the mismatch is mainly driven by differences in the worker category: "Other" (i.e. receptionist, clerk, secretary, waiter, security guard, electrician, plant operator, cleaner, etc.). For **France** and **Switzerland**, instead, the mismatch is proportional across types of workers.

## 3 Validity of Noncompete clauses

We want to explore whether there is some interesting correlation between the mismatch between worker and employer incidence values, and the validity of the Noncompete clauses reported. By exploiting an elaboration from OECD on the legislative framework of the countries of our dataset, we seek to create one dummy variable for each country, indicating whether the clause is legal or not (or whether it is ambiguous). The first step is to lie down, if available, relevant criteria that can be cross-checked within our dataset, in order to create such dummies. In the following list we report, for each country, the information that we have on the legal framework, and we proposed the parameters that we can use to create the dummies.

### 3.1 Literature

Starr et al. (2020) study how unenforceable contractual provisions may affect behaviour. Even in states that do not enforce noncompetes, employees who agree to be bound by such provisions show generally lower mobility levels and evince redirection toward noncompetitors. Decomposing mobility into job offer generation and acceptance, the study detected no evidence of differences in job search, recruitment, or offer activity associated with non-competes. Rather, the effect occurs at the job offer acceptance stage—workers turn down opportunities they otherwise would have accepted.

Prescott and Starr (2024) show that an information treatment that roughly simulates an educational campaign can cause employees to update their beliefs about enforceability—especially when noncompetes are actually unenforceable. After receiving information, employees with an unenforceable noncompete report that their noncompete would be less of a factor in choosing whether to accept employment with a competitor than they do when they mistakenly believe ex ante that their noncompete is enforceable. However, employees as a group do not fully adjust their mobility intentions (that is, they do not report that their noncompete would no longer matter). In fact, a nontrivial fraction of employees who see their noncompete as unenforceable and who view a lawsuit as unlikely continue to consider their non-compete to be a factor in deciding whether to take a job offer at a competitor. This result suggests that moral, reputational, and perhaps financial costs remain for violating even entirely unenforceable contract provisions.

Boeri et al. (2023) find that unenforceable clauses, i.e. clauses that are more likely to be used just to deter workers from moving and not to protect business interests, go hand-in-hand with lower wages compared to likely enforceable ones. On the opposite, they are not associated to higher or lower training opportunities.

## **3.2 Unenforceability, by Country**

### **Mexico**

Always unenforceable.

### **Belgium**

Unenforceable if:

- Duration above 12 months (or no duration)
- Compensation below 50% of salary (or no compensation)
- No geographic or sectoral scope
- Annual gross salary below 43,106 (as of January 2025)
- If the salary is between EUR 43,106 and 86,212, a noncompete is unenforceable unless CBA says otherwise

### **Germany**

Unenforceable if:

- Duration above 24 months (or no duration)
- Compensation below 50% of salary (or no compensation)
- No geographic or sectoral scope

### **Sweden**

Unenforceable if:

- Duration above 9/18 months (or no duration) — but can last longer under special circumstances
- Compensation below 60% of salary (or no compensation, but lower amount is admitted if the employee earns a salary from non-competing work)
- No geographic or sectoral scope

### **Canada**

Unenforceable if:

- No duration
- No geographic or sectoral scope

Note: specific rules for Ontario (noncompetes banned in 2021 + sanctions)

**Portugal**

Unenforceable if:

- Duration above 24 months (or no duration)
- No compensation
- No geographic or sectoral scope

**France**

Unenforceable if:

- No duration
- No compensation
- No geographic or sectoral scope

**Spain**

Unenforceable if:

- Duration above 24 months for technical employees and 6 months for other workers (or no duration)
- No compensation
- No geographic or sectoral scope

**Switzerland**

Unenforceable if:

- Duration above 36 months (or no duration)
- No geographic or sectoral scope

**Poland**

Unenforceable if:

- No duration
- Compensation below 25% of salary (or no compensation)
- No geographic or sectoral scope

**Japan**

Unenforceable if:

- No duration
- No geographic or sectoral scope

**United Kingdom**

Unenforceable if:

- No duration
- No geographic or sectoral scope

**New Zealand**

Unenforceable if:

- No duration
- No geographic or sectoral scope

**Korea**

Unenforceable if:

- No duration
- No geographic or sectoral scope

## References

- Tito Boeri, Andrea Garnero, and Lorenzo G. Luisetto. Non-Compete Agreements in a Rigid Labour Market: The Case of Italy, March 2023. URL <https://papers.ssrn.com/abstract=4396108>.
- J.j. Prescott and Evan Starr. Subjective Beliefs about Contract Enforceability. *The Journal of Legal Studies*, 53(2):435–488, June 2024. ISSN 0047-2530. doi: 10.1086/721978. URL <https://www.journals.uchicago.edu/doi/10.1086/721978>. Publisher: The University of Chicago Press.
- Evan Starr, J. J. Prescott, and Norman Bishara. The Behavioral Effects of (Unenforceable) Contracts, September 2020. URL <https://papers.ssrn.com/abstract=2858637>.