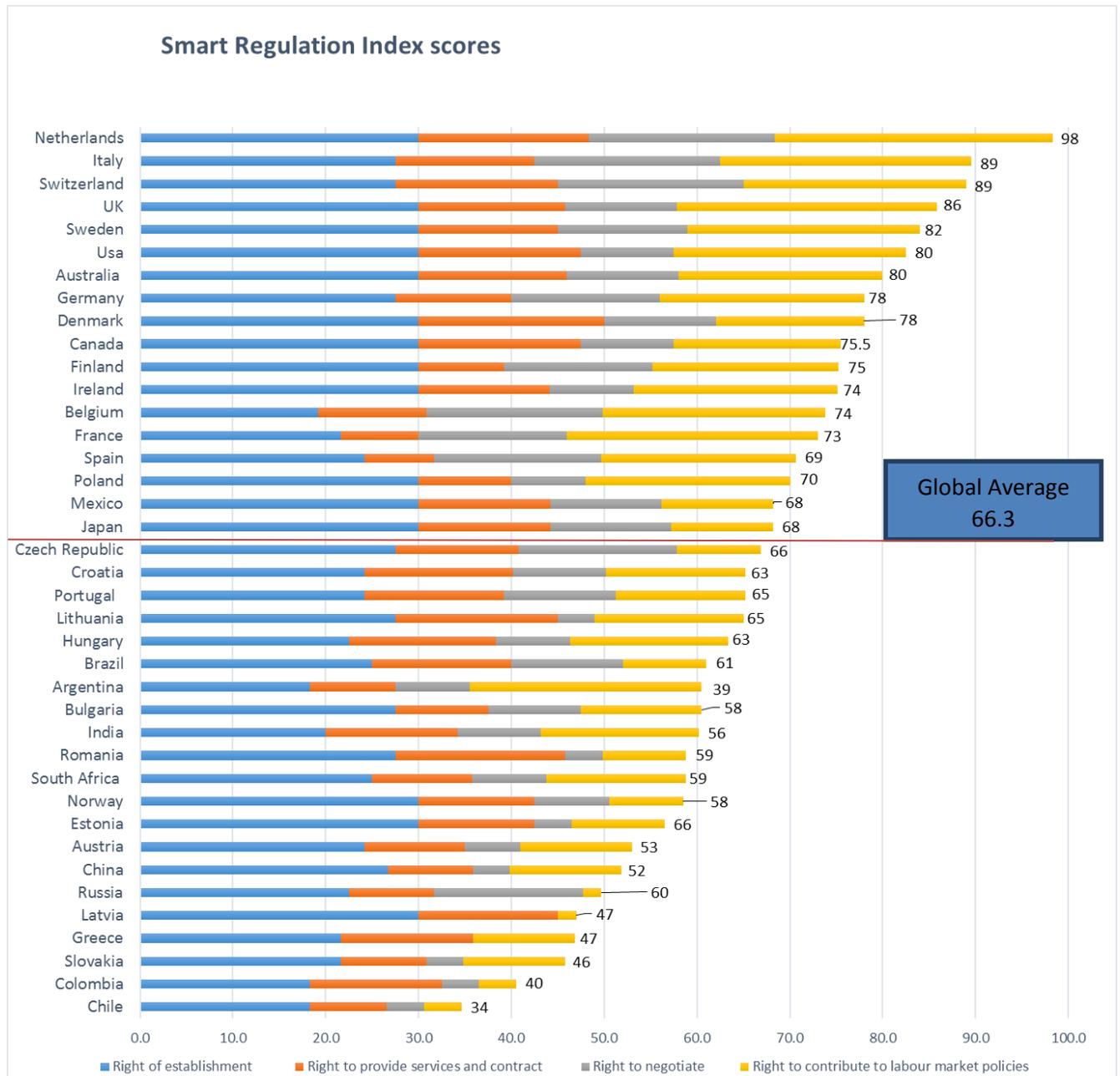


## Smart Regulation Index

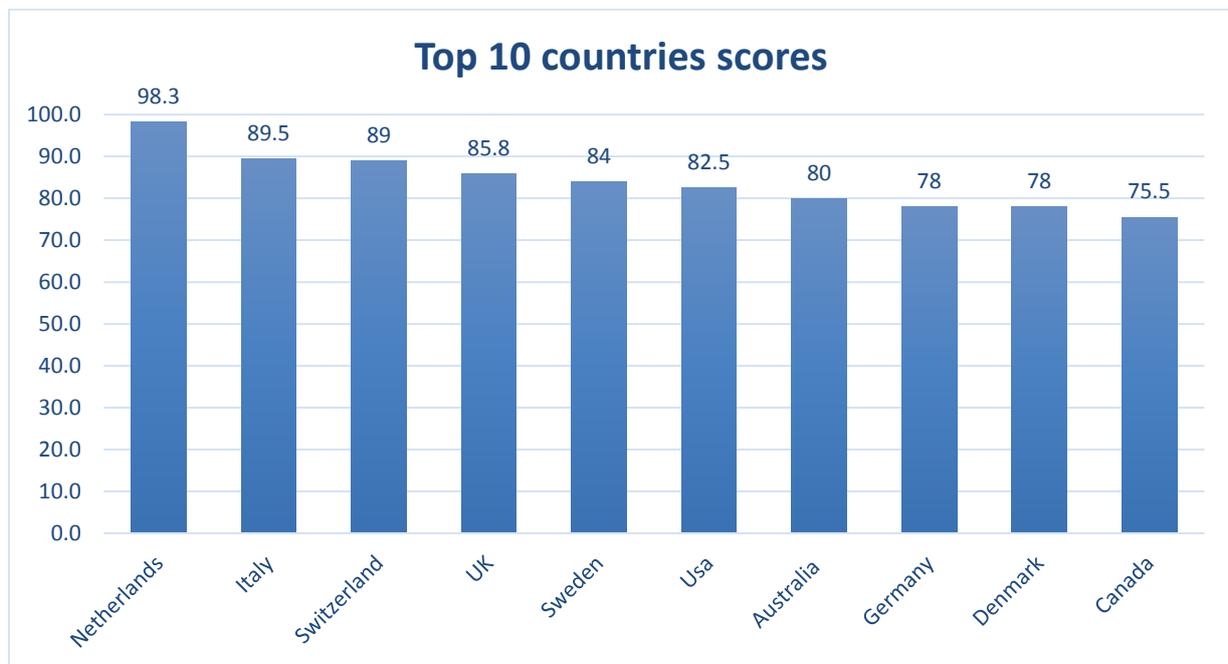
November 2018



The Smart Regulation Index (SRI hereafter) measures the labour market’s willingness to use Private Employment Agencies (PrEAs) in the indicated countries and focuses on the agency work sector. The index score is based on the World Employment Confederation’s members’ responses to a survey which was divided into the following four sections, with a maximum global score of 100:

- **Right of establishment:** This indicator measures the ease of starting a legitimate PrEA business in any given country and accounts for 30 points.

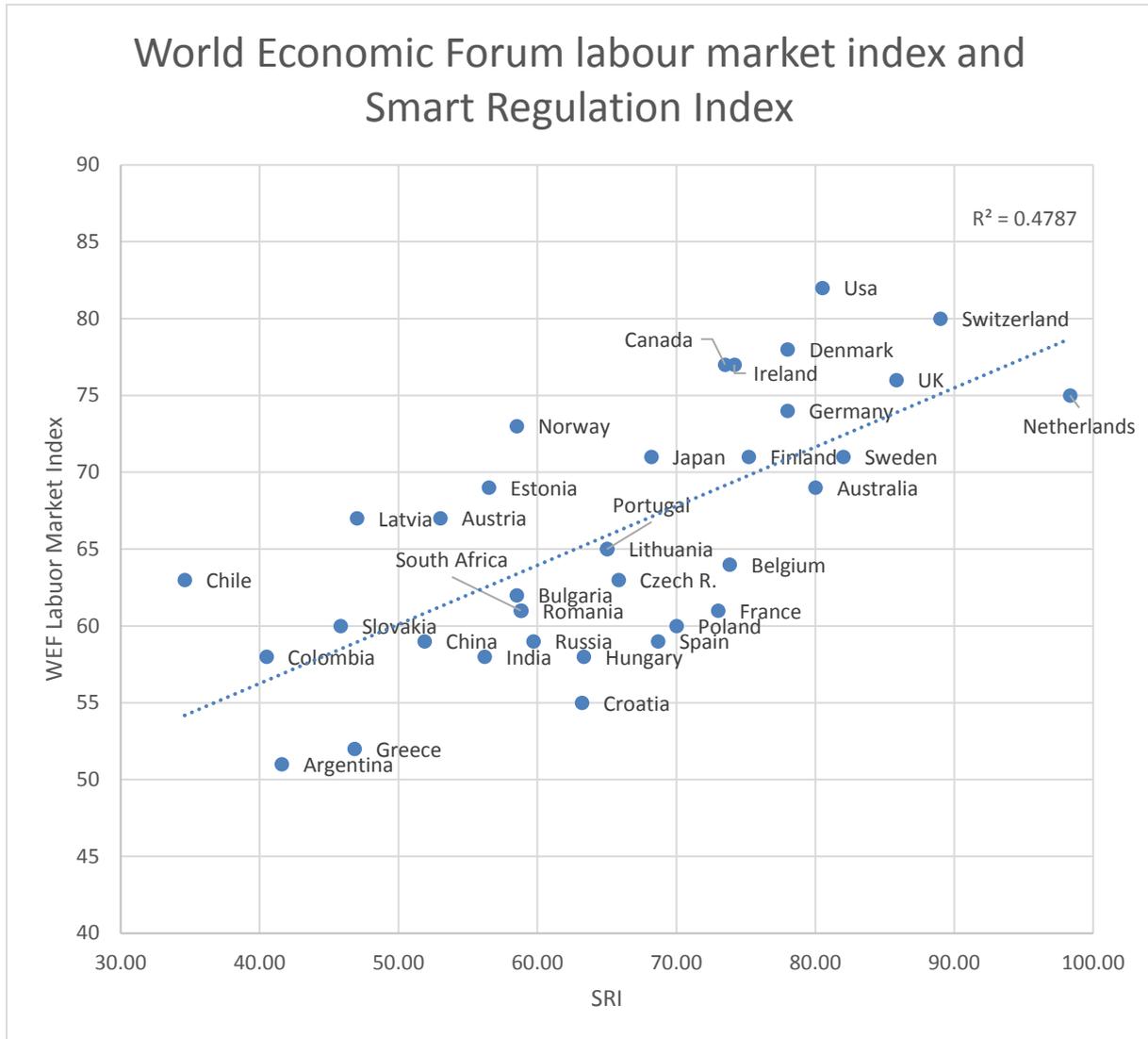
- **Right to provide services and contracts:** This indicator measures the freedom of PrEAs in delivering the full range of HR services to companies and offering the full range of employment contracts to workers. This indicator accounts for 20 points.
- **Right to negotiate:** This indicator measures the level of participation of PrEAs in social discussions, either social dialogue or any other social system and the PrEAs ability to implement innovative forms of social protection. This indicator accounts for 20 points.
- **Right to contribute to labour market policies:** This indicator measures the level of participation of PrEAs with regard to labour market policies, training for agency workers and social responsibility. This Indicator accounts for 30 points.



### Global Findings:

The Netherlands and Italy hold the first and second positions respectively. The Netherlands rank first in three (3) sections out of the four (4) and have a global score of 98.3, falling short of the maximum score by less than 2 points. This result reflects a deep and decanal social involvement of PrEAs in the local labour market and in society in general. By contrast, the Italian market has shifted from being one of the most recent in Europe to release the PrEAs potential (1997) to one of most important markets, which is due to a series of deep reforms in 2015. Switzerland ranks directly after Italy (half a point less). Four Anglo-Saxon countries rank within the top ten: UK (4<sup>th</sup>), USA (6<sup>th</sup>), Australia (7<sup>th</sup>) and Canada (10<sup>th</sup>), indicating once again, that different regulation systems can be equally efficient. Emerging markets are led by Mexico (17<sup>th</sup>), scoring slightly above the global average, whilst Poland is leading the Eastern European market in 16<sup>th</sup> position overall, having a total score of 4 points above the global average.

**Figure 3**



Sources: World Economic Forum - The Global Competitiveness Report 2018; 16 October 2018

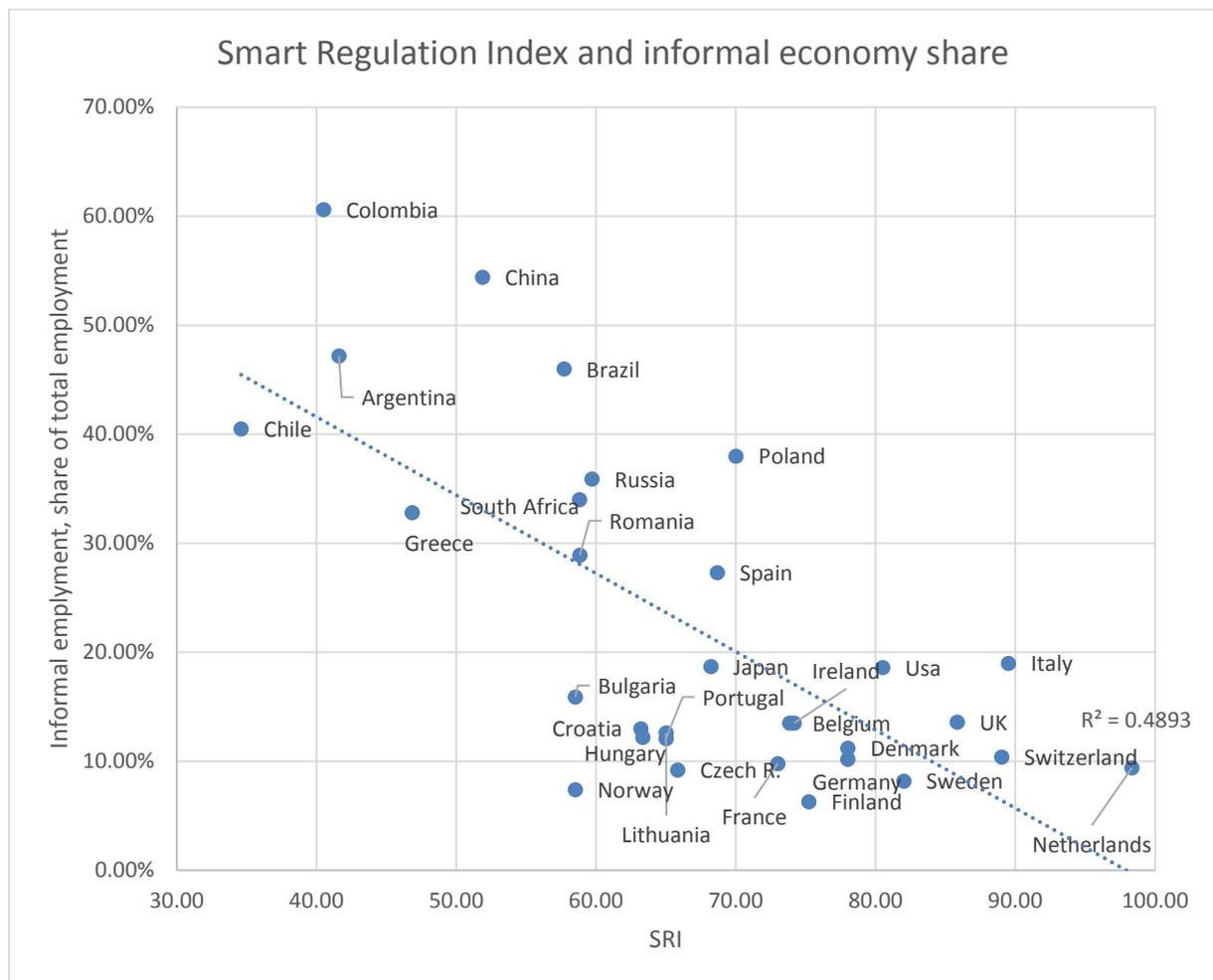
<https://www.weforum.org/reports/the-global-competitiveness-report-2018>

PrEAs are reliable players in the labour market that enable the job-matching, mitigating the information asymmetry. Therefore, the smarter the regulation on PrEAs is, the more efficient the labour market. The World Economic Forum has developed a “Competitiveness Index” to rank countries considering their overall performance in 12 sectors.<sup>1</sup> The most relevant sector for the purpose of our analysis concerns the labour market efficiency, which is used in figure 3 to elaborate a linear correlation with the SRI. Indeed, there is an important statistical relationship between the level of efficiency of the labour market in general and the regulation on PrEAs ( $r^2=0,48$ ). Although the labour market is a complex and varied environment, into which many components factor, this

<sup>1</sup> Institutions, infrastructure, macroeconomic environment, health and primary education, higher education and training, goods market efficiency, labour market efficiency, financial market development, technological readiness, market size, business sophistication and innovation

statistical relationship strongly indicates towards a positive impact of PrEAs on labour market efficiency.

**Figure 4**



Sources: ILO - Women and Men in the informal economy: a statistical picture (third edition)  
[https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms\\_626831.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_626831.pdf)

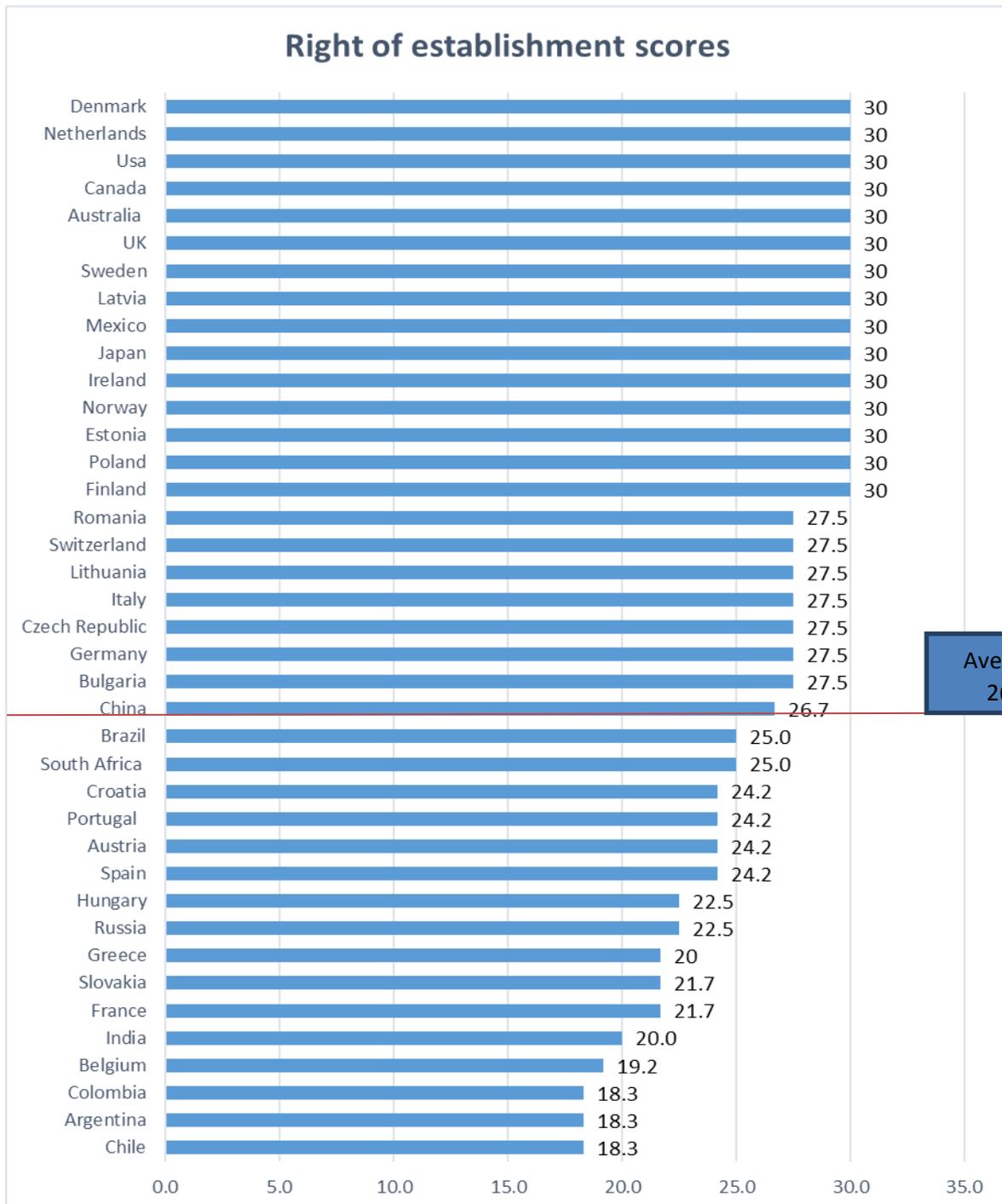
The need to promote smart regulation on PrEAs, and agency work in particular, is showcased by the relationship between the SRI score and the size of the informal economy (informal employment relative to overall employment) in any given country, as demonstrated in figure 4. There is a strong negative correlation between the regulation smartness on PrEAs and the level of informality ( $r^2=0,49$ ): countries with higher scores in the SRI are characterized by a lower level of informality. Indeed, a previous study offers evidence<sup>2</sup> that agency work acts as a leverage against informal employment, formalizing jobs that would remain in the shadow otherwise. Not only does such an effect allow workers to legally enter the labour market and to access social protection, health insurance and additional workers' rights. It also brings gains to society overall, in the form of taxes and social contributions that would be lost otherwise.

<sup>2</sup> P. Renooy, C.C. Williams, *Flexibility@work 2014 tackling undeclared work*, Randstad, 2014.

## Right of establishment

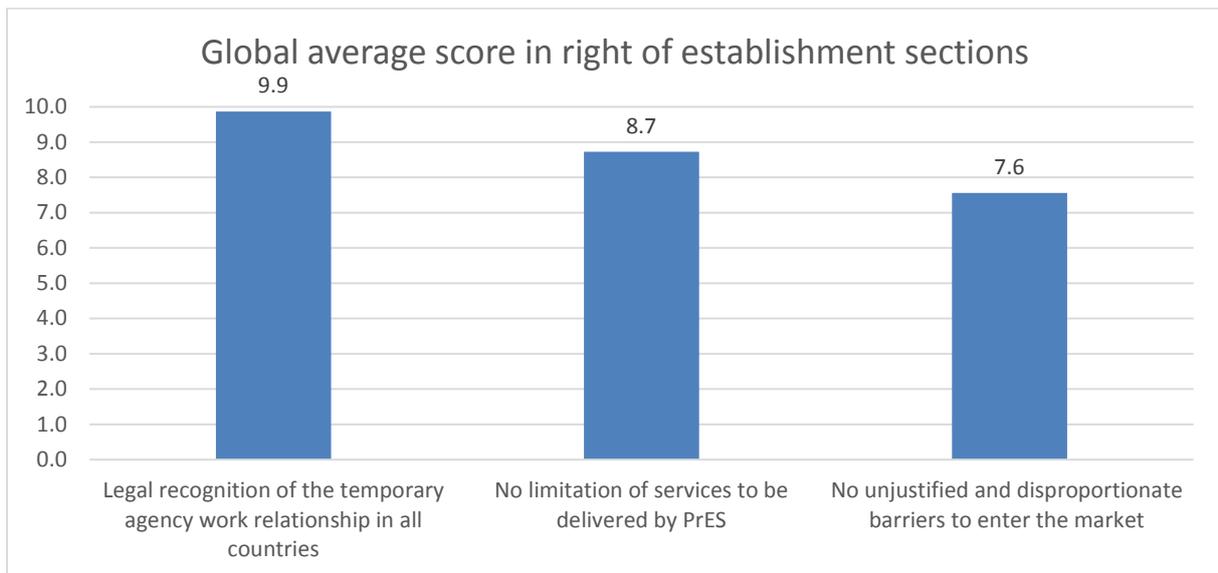
**Global Average:** 26,2/30

**Top 3 Countries:** Fifteen countries have the maximum score



The first important step in promoting a flourishing business environment in a country is to implement a favorable regulatory framework in order to encourage companies and individuals to invest capital. PrEAs are no exception and require a fair, competitive and smart framework to facilitate the establishment of businesses and support company growth. This index section measures the level of simplicity in establishing a business in any given country. After many years of skepticism, PrEAs are now acknowledged as an important contributor to labour market efficiency. This is indicated by both the high score and global average of this section. Indeed, the right to establish a business is the most successful indicator with a global average of 87% of the maximum score.

However, it is important the industry does not become complacent and keeps working on strategies that will continue to improve the legal framework. As the individual sections' averages demonstrate, there is still room for improvement for example in the removal of disproportioned barriers in entering the PrEAs' market.



The most common disproportionate barrier to entering the PrEAs market, is the administrative burden arising from a large number of legal requirements and conditions (14 countries), as well as a significant amount of restrictions on the type of legal entities that can establish a PrEA (7 countries).

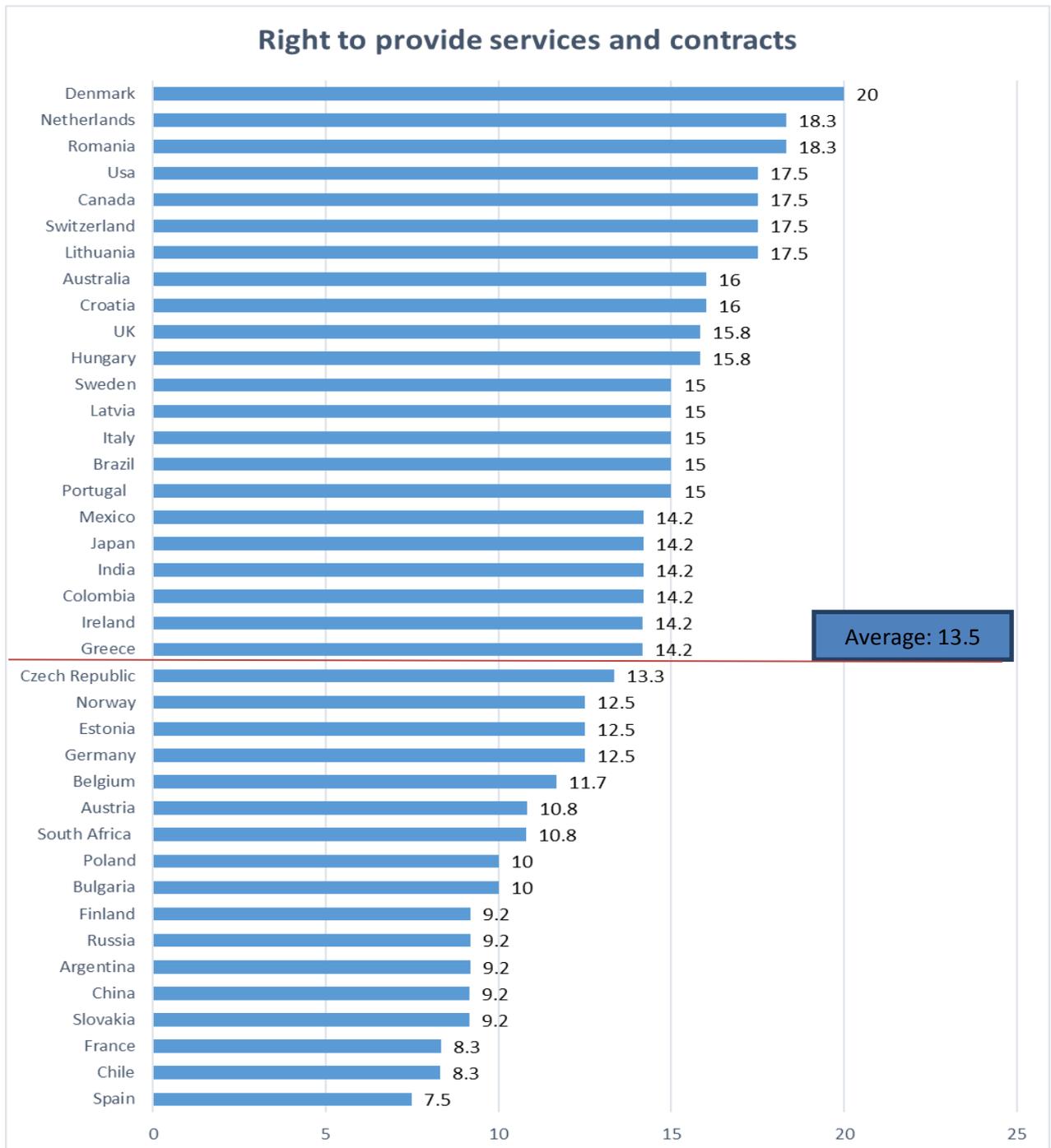
**Take-aways:**

- Right to establishment businesses has the highest score of the entire index with a global average of 88% of the maximum score.
- Yet, unjustified barriers to the PrEAs' market remain a concern, especially administrative conditions (reported by 14 countries).

## Right to provide services and contract

**Global Average:** 13.5/20

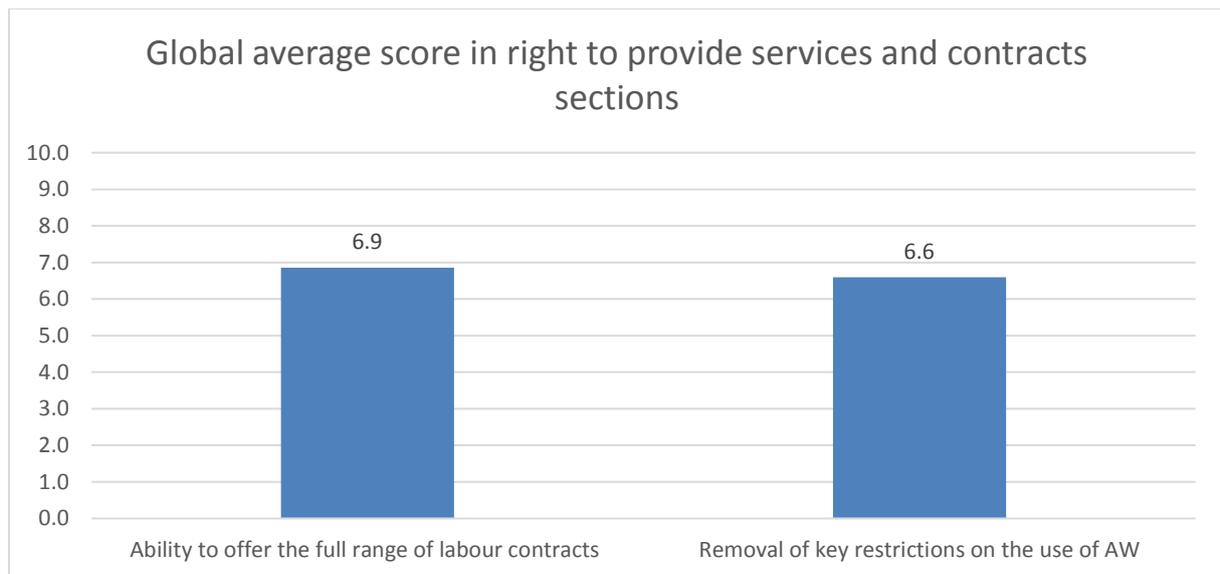
**Top 3 Countries:** Denmark (20), Netherlands (18.3), Romania (18.3)



If the right to establish a PrEA business is the foundation of the PrEAs industry, the ability to provide the full range of services and contracts is the load-bearing wall. This index section is specifically focused on agency work, which is the core of any PrEAs business. In the past, agency work was restricted and in some areas continues to be, for example with respect to the types of contracts offered, as well as sectoral bans.

Such restrictions hinder the contributing role that PrEAs can play in the labour market, slowing the process of bringing people into work and limiting companies' flexibility in adjusting to economic cycles.

It therefore comes as no surprise that Denmark, the model country for the flexicurity gold triangle, occupies the top position in this section. Italy and Brazil represent two countries that have improved their regulation on PrEAs, which can be attributed to recent legislative reforms. By contrast, the future impact of the recent reforms implemented in Japan cannot be assessed yet. The analysis of the second pillar's subsections supports the theory that on a global level, restrictions on agency work are more widespread than the limited types of contracts offered to agency workers.



The most frequent form of restriction we see, is the presence of a maximum length of assignments (20 countries), followed by the need to justify the use of agency workers (15). However, a remarkable number of sectoral bans on agency work are still in place (10 countries) and call for further action to boost regulation smartness.

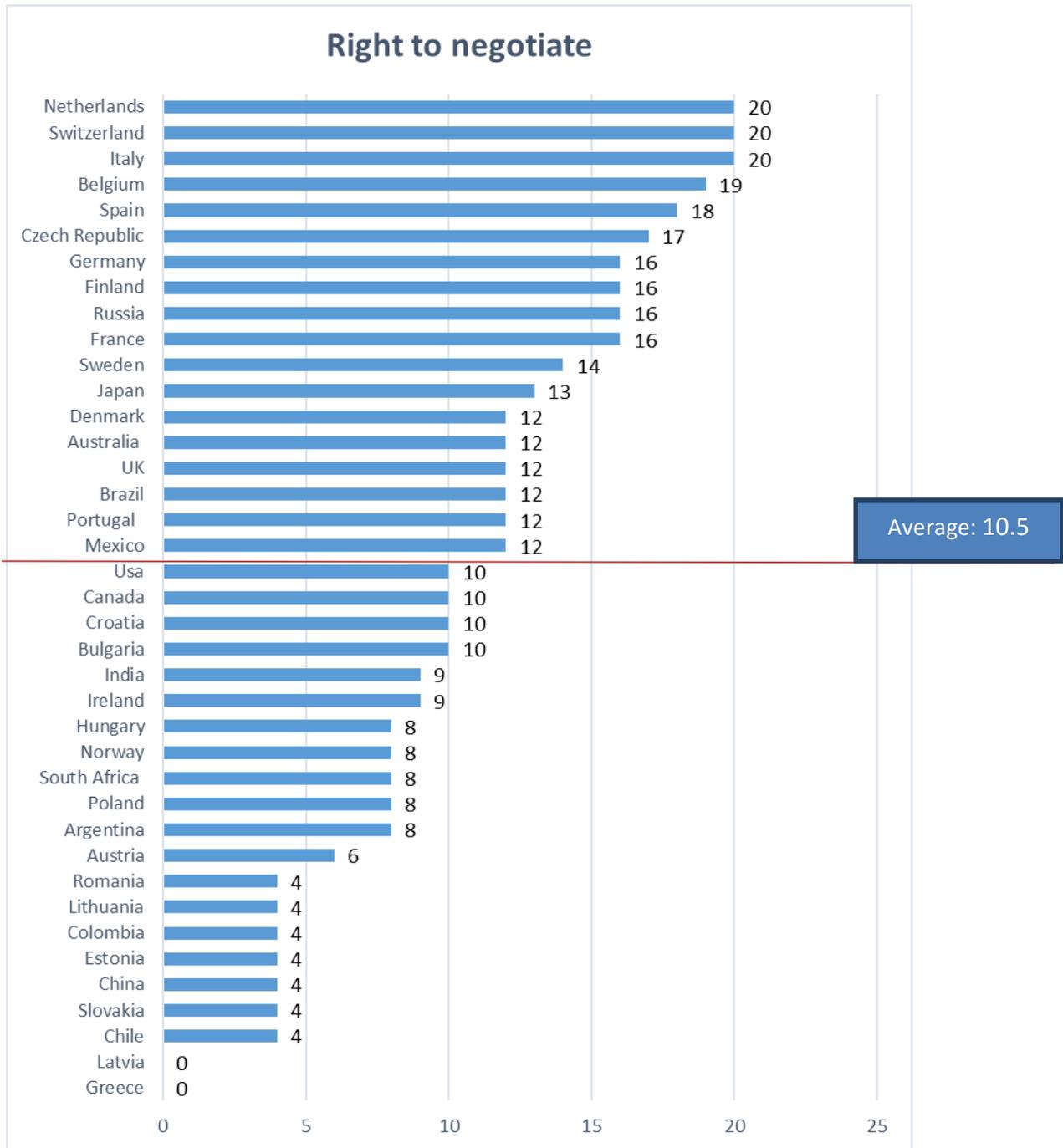
**Take-aways:**

- To date, only Denmark has been able to achieve access to both the complete range of contracts and services for PrEAs.
- The most common form of legal restriction is maximum length of assignments (reported by 20 countries).
- 10 countries are still facing sectoral bans for agency work.

## Right to negotiate

**Global Average:** 10.5/20

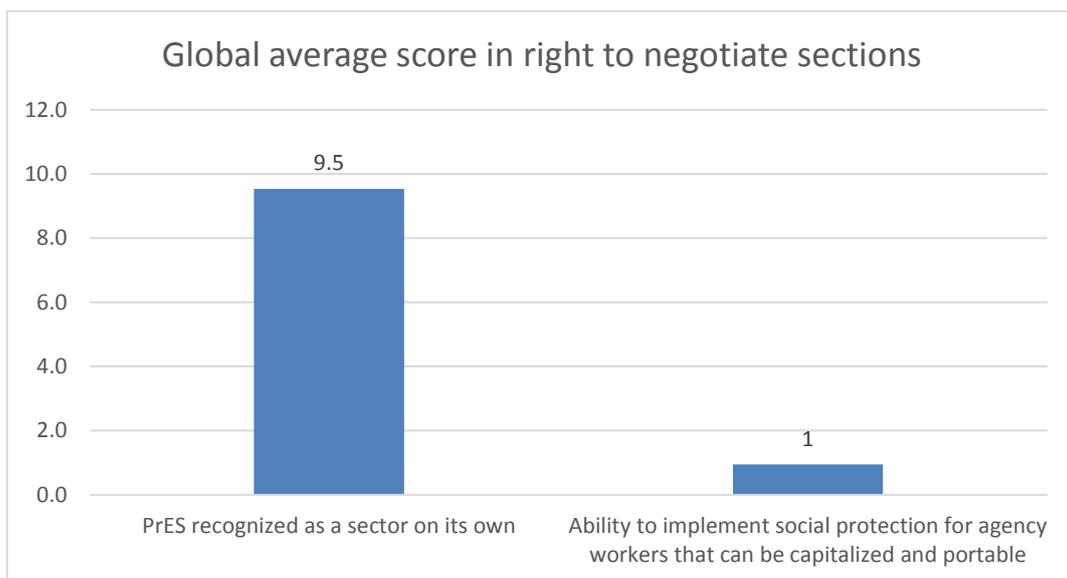
**Top 3 Countries:** Netherlands (20), Italy (20), Switzerland (20)



Intermediation is an intrinsic and natural phenomenon of labour markets, making it essential for us to recognize and distinguish good and ethical forms of business from fraudulent and illegal players. In order to achieve this objective, it is fundamental that we build strong relationships between responsible PrEAs and social actors. We need to recognize PrEAs' associations as rightful representatives of the agency work sector and involve PrEAs in changes to governmental consultation concerning the labour market. This index section measures the level of recognition of PrEAs as a sector on its own in any given country.

The top three countries of the Smart Regulation Index all share the maximum score in this particular section (the Netherlands, Italy and Switzerland). It can therefore be inferred that recognizing their contribution is a strong indicator of the entire regulation on PrEAs.

Every rule has its exceptions. For example, the USA represents a stand-alone case: PrEAs are certainly recognized as a sector on its own, but collective agreements are less in use in the USA industrial relations and therefore it scores lower than what it actually represents. The global average, slightly above 50% (10,5), proves that there remains work to be done in order to increase PrEAs representatives' recognition around the world.



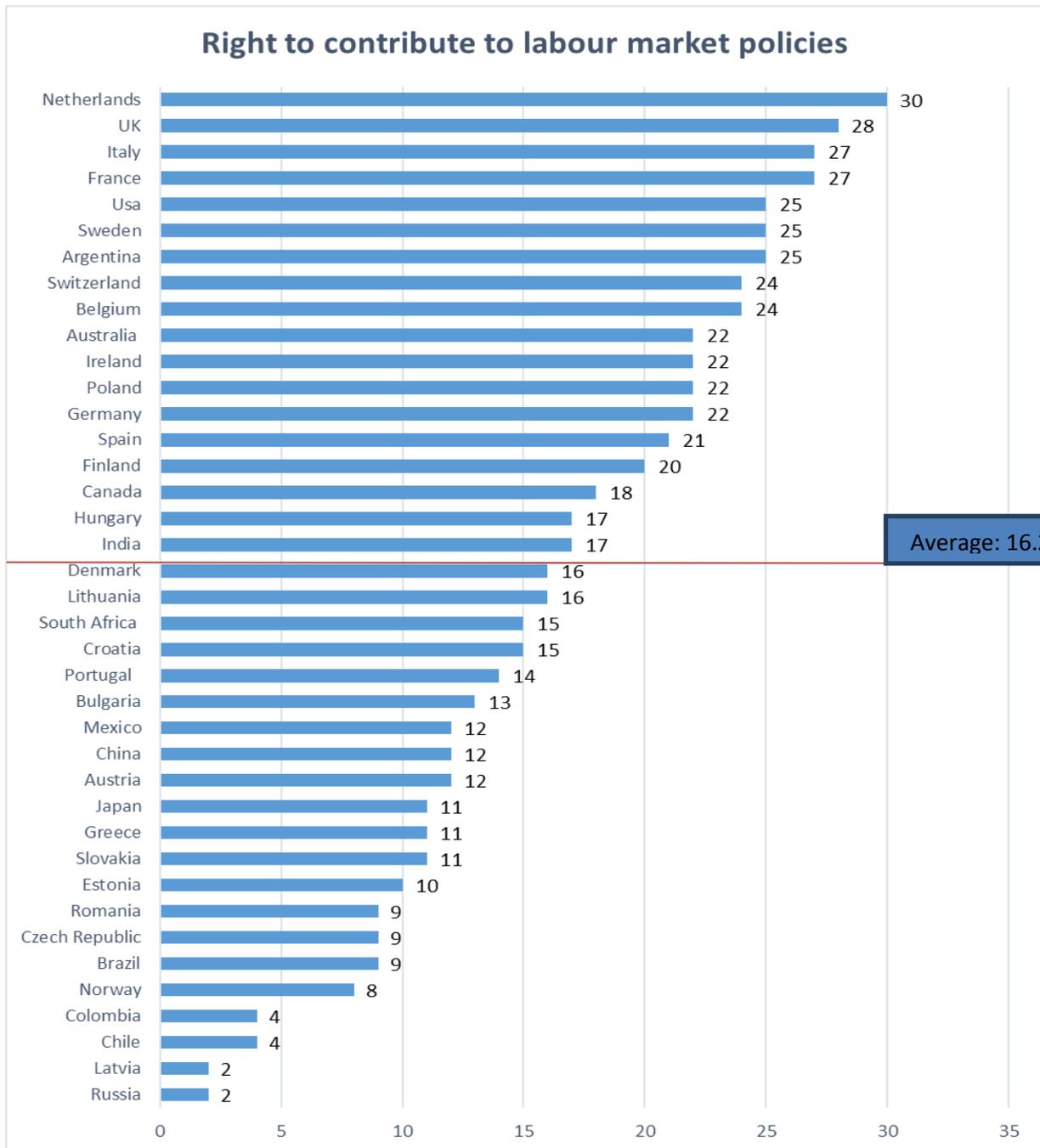
**Take-aways:**

- The recognition of PrEAs' representation bodies is still low, as the global average score of 50% demonstrates.
- The three top countries overall score the maximum in this section, proving that the right to negotiate is the cornerstone of a sound regulation of the PREA sector.

## Right to contribute to labour market policies

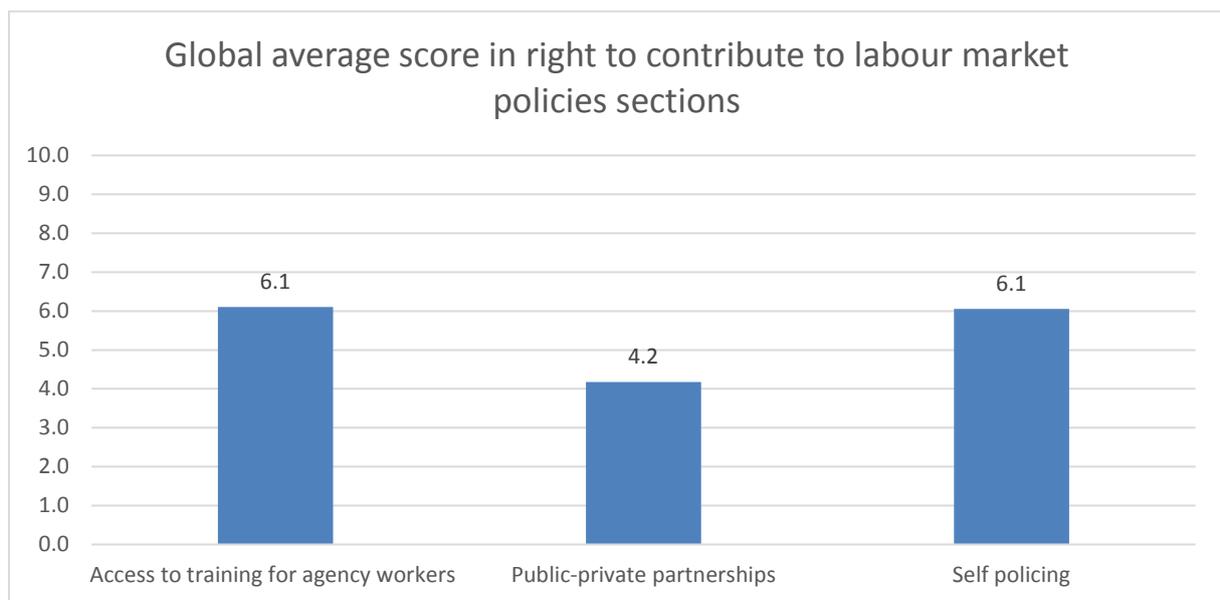
**Global Average:** 16.2/30

**Top 3 Countries:** Netherlands (30), UK (28), Italy (27)



Private employment agencies can deliver multiple services to the labour market, namely intermediation, professional career advice, profiling, as well as up-skilling and/or re-skilling of workers who may be at risk of labour market exclusion. Such contributions should be fully acknowledged by policymakers when determining labour market regulation. This index section measures the degree of involvement of PrEAs in labour market policies and also the level of social responsibility practices developed by the employment industry in any given country, e.g. code of conduct and access to training for agency workers.

Unsurprisingly, the Netherlands leads this section with full marks, followed by the UK, falling short by only 2 points due to the absence of a bipartite training fund. Countries in which a bipartite training fund exists all rank in the top ten positions of this particular section, with the exception of Austria, where the PrEAs industry does not offer apprenticeships and has a low level of involvement in labour market policies. Nevertheless, countries without bipartite training funds are also extremely well positioned, with full marks in training opportunities, e.g. the USA and Australia, as well as the top-scoring UK.



The global average supports the theory that public and private partnerships are the major concern that needs addressing by states in order to better integrate PrEAs into labour market policies. Indeed, the global average score in this sub-section is 2 points that of the other two sub-sections (access to training and self-policing), amounting to a 33% difference. The most widespread form of public-private partnerships (also the least complex) is that of *exchanging information around vacancies and job offers* (23 countries), followed by the *provision basic services to public employment services (e.g. skills assessment)* (16 countries). With regard to social responsibility, in 28 out of 35 members of the World Employment Confederation a national code of conduct exists together with quality standards for the employment industry. 27 members have implemented an anti-discriminatory policy which their members must adhere to and 23 countries have carried out audits, of which some led to actions against non-compliant members.

**Take-aways:**

- Public-private partnerships need to be promoted and expanded, as the low global average score suggests (4/10 in this subsection).
- 80% of respondents have implemented a national code of conduct; 77% adhere to an anti-discrimination policy; 65% conducted audits and took action against non-compliant members.