

**Note on the role of employers' and workers' organizations  
in the implementation of ILO Conventions  
and Recommendations**

International Labour Office

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## **Note on the role of employers' and workers' organizations in the implementation of ILO Conventions and Recommendations**

1. The ILO is the only international organisation with a tripartite structure. Employers' and workers' representatives participate in its work on the same footing as representatives of governments. For the occupational organisations concerned, this unique feature of the ILO implies special rights and obligations, particularly in the field of international labour standards.
2. Employers' and workers' organisations traditionally play an active role in the framing of Conventions and Recommendations. Their representatives on the Governing Body of the ILO take part in the selection of subjects to be placed on the agenda of the International Labour Conference for standard setting and they participate in the discussion and adoption of ILO instruments through their delegates to the ILC. Furthermore, the ILO Governing Body has recommended that consultation takes place with the most representative organisations of employers and workers on government's replies to questionnaires concerning items of the agenda of the ILC and as regards comments on proposed texts to be discussed by the Conference as provided for under the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152). Such consultation is required of States having ratified the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).
3. Although the implementation of Conventions and Recommendations is primarily a responsibility of member States, the fulfilment by governments of their obligations in this respect is subject, under the ILO's Constitution and procedures, to international supervision on the basis of information and reports to be supplied regularly by member States, and here the employers' and workers' organisations can also play an important role. Under article 23, paragraph 2, of the ILO Constitution, the governments must communicate to the representative organisations of employers and workers copies of the information and reports supplied to the ILO. The organisations concerned have an opportunity of commenting on their country's position in regard to these matters. These comments are brought to the attention of the Committee of Experts on the application of Conventions and Recommendations, an independent body responsible for monitoring compliance. Further, employers' and workers' representatives can participate in the work of the Conference Committee on the Application of Conventions and Recommendations, a tripartite committee set up every year by the Conference to discuss the position of individual countries on the basis of the report of the Committee of Experts.
4. The main features of the ILO procedures for the implementation of standards, and the part that employers' and workers' organisations can play in this regard, are recalled below.

### **Submission of standards to the competent national authorities - a crucial stage in their implementation**

5. All Conventions and Recommendations adopted by the Conference must be submitted by governments within 12 months or at most 18 months to the competent authorities of the country - usually the national Parliament - for the enactment of legislation, or other action (article 19, paragraphs 5, 6 and 7, of the ILO Constitution). In doing so, the government is free to make whatever proposals it deems appropriate; it may propose ratification or not, and it may propose new legislation on the subject or not. But it should in any case state its position concerning the effect to be given to the ILO standards. Submission of newly adopted standards to the competent authorities can be a first and often decisive step towards their implementation. In the process, action initiated by the International Labour Conference can find an echo in parliamentary circles and in public opinion; in the case of Conventions, such discussions may lead to ratification.

6. Governments must report to the International Labour Office on the action taken to submit new Conventions and Recommendations to the competent authorities. In this connection, the Governing Body of the ILO has adopted a memorandum - copies of which are available on request - for the guidance of governments, indicating the action required and the information to be supplied to the ILO. Since copies of this information must be communicated to employers and workers, organisations can learn of any proposals made to the legislative authorities concerning the effect to be given to recent ILO instruments. For example, in the case of standards concerning occupational health services<sup>1</sup>, these organisations can thus ascertain whether the government intends to implement them immediately or in due course and what measures it is planning at the national level to give effect to instruments adopted by the International Labour Conference. The occupational organisations are thus made aware of their government's intentions and can follow up the question at the parliamentary stage or in other ways.
7. Even if no immediate action is contemplated, employer' and workers' organisations can draw on the relevant ILO standards at a later stage, when the adoption or revision of labour legislation or other measures is contemplated.

### Reports on ratified Conventions

8. When a Convention has been ratified<sup>2</sup> the government must report regularly to the International Labour Office on the measures taken to give effect to it (article 22 of the Constitution). As the particulars to be supplied are indicated in report forms drawn up by the Governing Body of the ILO, the representative organisations receiving copies of the reports should have copies of these forms so that they can decide on any point to be raised in connection with the application of a Convention.
9. ILO supervision operates on a fixed schedule, a report on each ratified Convention being as a rule due from governments between 1 June and 1 September, every two or five years. Within this timetable, certain occasions may be of particular importance to occupational organisations; one such key period coincides with the supply by governments of the first reports following ratification when questions may arise regarding the degree of conformity of national law and practice with the Convention. Attention is similarly required when the Committee of Experts has made comments on the application of a Convention. Representative employers' and workers' organisations are informed by the ILO of the reports due every year by their respective Governments, and of any pending comment made by the Committee. Even in the absence of such comments, major changes in the country's legislation or in the way it is implemented may fundamentally alter the situation. In other cases, circumstances may change basically, for example where there are new trends in migration between various countries, viewed in relation to the Conventions on the protection of migrant workers, or changes in working processes, viewed in relation to the Conventions on occupational safety and health. Finally, certain Conventions, such as the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117), or the Employment Policy Convention, 1964 (No. 122), call for policies and programmes, the implementation of which requires continued co-operation and interest on the part of the occupational organisations.

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<sup>1</sup> This question is dealt with in Convention (No. 161) and Recommendation (No. 171), adopted at the 71st Session of the Conference (1985).

<sup>2</sup> The International Labour Office regularly publishes information concerning ratifications of Conventions by member States.

## **Reports on unratified Conventions and on Recommendations**

10. Every year governments are asked to submit reports to the International Labour Office on the effect given to certain unratified Conventions and to certain Recommendations selected by its Governing Body (article 19, paragraphs 5, 6 and 7 of the Constitution). These reports must mention any difficulties preventing or delaying ratification of a Convention, and must indicate the extent to which effect has been given to a Recommendation. The standards selected for reporting usually concern topics of current interest (recent subjects include working time, equality of remuneration, protection of the working environment). These reports are based on special forms drawn up by the Governing Body and afford a chance to review the position in each country with regard to the topic selected. In a general survey of the instruments selected for reporting, the Committee of Experts indicates the conclusions to be drawn and the lessons to be learned with a view to increasing the effectiveness of the ILO standards under review.

## **Possibility of commenting on information and reports from governments**

### **Obligation to transmit copies of information and reports to the representative organisations**

11. As previously stated a copy of all the information and reports communicated to the International Labour Office must be communicated by the government concerned to the representative organisations of employers and workers in the country in accordance with article 23, paragraph 2, of the ILO Constitution. This includes information communicated to the Office concerning the measures taken to submit Conventions and Recommendations to the competent national authorities, reports on the application of ratified Conventions and reports on unratified Conventions and Recommendations.
12. The report forms relating to articles 19 (reports on unratified Conventions) and 22 of the ILO Constitution (reports on ratified Conventions) as well as the memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities include questions for the Government to indicate the representative organisations of employers and workers to which copies of relevant information and reports have been communicated in accordance with article 23, paragraph 2, of the ILO Constitution. If a government fail to do so, the ILO is requested by the Committee of Experts to send a reminder to the government pointing out the omission and asking it to indicate whether copies of the reports have been communicated to the representative organisations and, if so, the names of these organisations. If, in spite of the reminder, a government still fail to comply with the above requirement, the Committee of Experts may formulate a comment, usually in the form of a direct request, drawing attention to the matter and expressing the hope that in future all reports will indicate the representative employers' and workers' organisations to which copies of such information and reports have been communicated.
13. The report forms and memorandum also include a question for the government to indicate whether the employers' and workers' organisations concerned have made any observations and to communicate a copy of these observations to the ILO together with any comments that the government considers useful. It should be noted that this question refers in general terms to organisations concerned and not only to the most representative ones referred to under article 23, paragraph 2, of the ILO Constitution. National central confederations, federations for particular branches of activity, regional or local organisations or even the unions of a plant or plants may have an obvious interest in

submitting comments. International occupational organisations, with or without consultative status with the ILO, are also entitled to make comments on the effect given to ILO standards.

14. Observations can be made at any time and not only in connection with the government's reports. Those made by international organisations are directly transmitted to the ILO. Those made by national organisations are either transmitted directly or through the government. In the latter case, the government usually incorporates them in the report to be submitted to the ILO. Whenever comments are transmitted directly to the ILO, they are communicated to the government to enable it to make any comments it may consider appropriate.
15. In order to reduce the delay involved in examining observations sent by organisations of employers and workers, the Committee of Experts' practice is to examine these observations as soon as the government's comments have been received, irrespective of whether a report was due on the Convention. The Committee of Experts also proceeds to examine the substance of the observations if the government does not send its comments within a reasonable time.
16. There are various possibilities following this examination. The Committee of Experts may consider that the information received from the employers' or workers' organisation does not in itself provide the basis for comments on the application of the Convention concerned by the country in question. Sometimes the Committee finds that the situation involved is not incompatible with the Convention or that the difficulties referred to do not fall within its competence. The Committee also frequently asks the government concerned to provide further information on the question raised. On the other hand, it has often recommended that the government, on the basis of the information submitted by an occupational organisation, take suitable measures to correct the deficiencies observed. Subsequently, it has been able to take note of the assurances given by the government, and of the measures adopted, including the amendments introduced to the legislation.
17. The comments made by the Committee of Experts take the form of observations or direct requests as the case may be. Direct requests are used, particularly when the questions raised are of a very technical nature, when they are of secondary importance or when the Committee wishes to receive clarification of certain points before deciding the question raised. Observations are used in cases raising problems of general interest or of major importance.

## Implementing measures

18. Comments from employers' and workers' organisations may be concerned with the legislation or regulations giving effect to the Convention. Where the Convention may be applied by other means (in particular by collective agreements), in the absence of legislation, employers' and workers' organisations are in a better position than anyone to make certain that such other methods of application do in fact exist and are used. Thus, in addition to the more general constitutional provisions and procedure of the ILO, a majority of Conventions provide for consultation and collaboration with employers' and workers' representatives in giving effect to them. This need for effective co-operation between public authorities, on the one hand, and employers' and workers' organisations, on the other, is also stressed in various ILO Recommendations.

## Application in practice

19. Legislation, regulations or collective agreements often are not sufficient by themselves to ensure effective compliance with national and international standards. Comments by the representative organisations on the way in which these measures are in fact applied are therefore of essential importance. The role of these organisations naturally differs

according to whether observance of the terms of a Convention lies directly upon employers and workers, as in the case of the Conventions on minimum age and hours of work, or mainly concern the public authorities, as in the case, for example, of the Conventions on labour inspection in industry and commerce (No. 81) and in agriculture (No. 129). In the first case, are the employers and workers aware of the standards and do they observe them? And, in the second case, as regards labour inspection, for example, how often do the inspectors visit workplaces, how do they discharge their duties and responsibilities and how effective is their inspection? In the case of social security Conventions, do the necessary administrative services exist throughout the country, are workers properly covered, and are contributions paid regularly?

## **Role of Employers' and Workers' members in the Conference Committee on the Application of Conventions and Recommendations**

20. The report of the Committee of Experts<sup>3</sup> provides the basic material for discussion within the tripartite committee which the International Labour Conference appoints every year to examine the application of Conventions and Recommendations. The contents of this document are therefore of paramount interest to employers' and workers' organisations. In order to make the best use of the limited time available, the Conference Committee on the Application of Conventions and Recommendations makes a choice of those points in the report of the Committee of Experts which require its special attention. The Employers' and Workers' members of this Committee may raise questions as to the observance by individual member States of their constitutional obligations concerning ILO standards (supply of reports, submission, etc.). The position of Employers and Workers' groups is often prepared in the course of group meetings and the resulting dialogue with the government concerned is fully recorded in the Committee's report to the plenary Conference. The participation of Workers' and Employers' members may thus lay the ground for future progress in the implementation of ILO standards in the cases discussed.

## **Conclusion**

21. The importance of employers' and workers' contribution to the implementation of Conventions and Recommendations has been repeatedly stressed by the supervisory bodies and also by the Conference, more particularly, in the resolutions calling for the strengthening of tripartism adopted in 1971 and 1977. The adoption by the Conference of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) and the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152) was an important element in the intensified action of the ILO to promote tripartite action both nationally and internationally in all matters of concern to the ILO.
22. As regards the scope of consultations, States ratifying Convention No. 144 undertake to operate procedures which ensure effective consultations between representatives of the government, of employers and workers on the following matters: government replies to questionnaires concerning items on the agenda of the International Labour Conference

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<sup>3</sup> Report III (Part 1), submitted yearly to the session of the International Labour Conference which follows that of the Committee of Experts and published in two volumes: Part 1A: dealing with the application of ratified Conventions, and action by governments to submit Conventions and Recommendations to the competent authorities; Part 1B: General Survey on Conventions and Recommendations selected for reporting by the Governing Body under article 19 of the ILO Constitution.

and government comments on proposed texts to be discussed by the Conference; the proposals to be made to the competent authority or authorities in connection with the submission of Conventions and Recommendations pursuant to article 19 of the Constitution of the International Labour Organisation; the re-examination at appropriate intervals of unratified Conventions and of Recommendations to which effect has not yet been given, to consider what measures might be taken to promote their implementation and ratification as appropriate; questions arising out of reports to be made to the International Labour Office under article 22 of the Constitution; and proposals for the denunciation of ratified Conventions. The Recommendation provides for consultations on additional matters such as preparation and implementation of legislative or other matters to give effect to the instruments; questions arising out of reports to be made to the ILO under article 19 of the Constitution; technical co-operation; resolutions and conclusions of conferences and meetings and promotional activities.

23. Both the Convention and Recommendation specify that the consultations should take place at appropriate intervals, fixed by agreement, but at least once a year.
24. Following the Conference resolutions of 1971 and 1977, the ILO has taken a number of measures to ensure that employers' and workers' organisations are better informed of the possibility open to them of contributing to the implementation of ILO standards in their countries. Every year a letter is sent to representatives of employers' and workers' organisations in member States indicating, in particular the Conventions on which their governments must submit reports accompanied with the relevant report forms and, where appropriate, the text of the comments made by the Committee of Experts on these Conventions. At the request of the Workers' delegates, the ILO has also organised study courses on the procedures for the adoption and supervision of standards for workers' representatives at the International Labour Conference and at regional conferences. Seminars have also been organised for workers and employers at the national level with ILO assistance. Finally, the Office has provided individual training on international labour standards to a number of employers' and workers' representatives.
25. These measures have undoubtedly made employers' and workers' organisations more fully aware of the place they can fill in the supervisory machinery concerning the application of Conventions and Recommendations. They also explain the considerable increase in comments received in the regular process of supervision which is based on the supply of reports. These comments numbered nine in 1972, 52 in 1975 and 1980, 82 in 1983, 102 in 1984 and 155 in 1987. It need hardly be said that they form a particularly useful source of information on the way in which States give effect to the standards of the ILO in law and in practice. They have often enabled the Committee of Experts to obtain a better knowledge and a greater understanding of the difficulties encountered in the countries.
26. As can be seen, the implementation of ILO standards depends not only on governments but equally on the interest and participation of employers' and workers' organisations in the various phases of this tripartite procedure unique to the ILO. The effectiveness of their collaboration also depends on the degree of their development in a given country.
27. The role of employers' and workers' organisations in relation to ILO standards might be enhanced:
  - through training activities undertaken by the ILO on the procedures and issues relating to international labour standards, including tripartite regional and national seminars as well as individual training for employers' and workers' representatives;
  - by using the normal channels of workers' education and assistance to employers to foster a wider knowledge of these standards, thus enabling the organisations concerned to draw on international labour Conventions and Recommendations in their day-to-day

- activities, in considering new labour legislation, in concluding collective agreements and in promoting social policy and progress in general;
- by collecting and maintaining the necessary basic documentation;
  - by appointing certain officials of the professional organisations particularly those with experience of ILO work
  - to act as focal point and keep abreast of all questions involving
  - Conventions and Recommendations, noting information on their application and seeing to it that the necessary comments are made, especially after the copy of the relevant government report has been received; employers' and workers' officials responsible for ILO standards matters should keep their leadership informed of all developments in this field, including in particular the measures taken or contemplated by the government to give effect to Conventions;
  - by methodically exploring possibilities of co-operation with governments in order to find solutions to difficulties preventing the full application of ILO Conventions; employers' and workers' organisations may support government action by providing information, and by measures taken through joint machinery or by other suitable arrangements.