

COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW

South Africa - 2022

THE ELIMINATION OF ALL FORMS OF FORCED OR COMPULSORY LABOUR Protocol of 2014 P029 to the Forced Labour Convention

REPORTING

Fulfilment of Government's reporting obligations

p29 Fulfilment of Government's reporting obligations

yes

Involvement of Employers' and Workers' organizations in the reporting process

91. When preparing its report, did the Government consulted [10.1]

a) The most representative employers' organizations, b) The most representative workers organizations

92. Employers' organizations to which the report was sent [12]

Business Unity South Africa via NEDLAC

93. Workers' organizations to which the report was sent? [13]

COSATU, FEDUSA, NACTU via NEDLAC

94. Please describe the consultation process(es). [10.2]

Response submitted to NEDLAC for Social Partner comments

OBSERVATIONS BY THE SOCIAL PARTNERS

Employers' and workers' organizations

83. Have employers and or workers organizations been consulted in the development and implementation of adopted measures? [6.1]

Yes

84. Please provide details and provide any relevant URL(s) [6.2]	Engagements were done through the NEDLAC, our social dialogue institution herein the participation of organized Labour, organized Business and the Community constituency (civil society) happen in a consultative manner
95. Did employers organizations comment on the report? [11a]	No
96. Did workers organizations comment on the report? [11b]	No
97. Please provide URL(s) to the responses and comments of the employers and workers organizations to the above questions, if you have received them	Due to time constraints, the Social Partners will submit their comments directly to the ILO

EFFORTS AND PROGRESS MADE IN REALIZING MEASURES TARGETED BY THE PROTOCOL

Ratification

Ratification status

p29 Ratification status

Not ratified

Ratification intention

61. If you have ratified Convention No. 29 but not the 2014 Protocol to Convention No. 29, what are the prospects for ratification of the Protocol?

Unlikely

62. The impediments to the ratification of the 2014 Protocol to Convention No. 29

At this stage, South Africa doesn't see the need to ratify the 2014 Protocol to Convention No. 29 because of the following reasons advanced: 1. Section 13 of the Constitution of the Republic of South Africa, 1996 as well as regulations in section 48 of the Basic Conditions of Employment Act, 1997 allows for full observance of the provisions as enshrined in the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105).

Existence of a policy and or plan of action for the suppression of forced or compulsory labour

<p>63. Is there a national policy and plan of action aimed at realizing the principle of effective and sustained suppression of all forms of forced or compulsory labour through prevention, victim protection and access to remedies? [1.1]</p>	<p>Yes</p>
<p>65. The manner in which employers' and workers' organizations have been consulted. [1.3]</p>	<p>The National Economic Development and Labour Council (Nedlac) is the vehicle by which Government, organized Labour, organized Business and community organizations seek to cooperate, through problem-solving and negotiation, on economic, labour and development issues and related challenges facing the country.</p>
<p>68. Is there a national policy and plan of action setting out measures and specific action for combatting trafficking in persons for the purposes of forced or compulsory labour? [1.5]</p>	<p>Yes</p>
<p>69. Description of these measures. [1.5]</p>	<p>The Prevention and Combating of Trafficking in Persons Act (TIP) make provisions for inter alia the Minister of Justice, the National Commissioner of Police and the National Director of Public Prosecutions (NDPP) to issue regulations, national instructions and directives respectively so as to ensure coordinated and cooperative approach in dealing with matters relating to trafficking in persons. To this end, the National Prosecuting Authority (NPA) is at the advanced stages of finalizing and issuing the directives in terms of the Act. Before this Act was passed into law, the NPA had already established a task team to develop training materials based on the "Bill" and the Palermo Protocol. The Department of Social Development will ensure the following: a. reporting in terms of Form 22 to the Child Protection Register (CPR), inclusive of categories of Child in need of care and protection which includes the following: street child, commercial sexual exploitation, child labour, exploited children, child trafficking and child abduction. b. The Children's Act has a monitoring and evaluation implementation plan and is monitored on a quarterly basis. c. Social workers who identify a child as a child in need of care and protection are obliged to complete Form 22 and refer the case to be captured on the CPR. Child and youth care centres to accommodate children involved in or at risk of Commercial Sexual Exploitation of Children, so that they are not forced to stay in brothels or on the streets or in other high-risk environments where they may be exploited. a. Chapter 13 of the Children's Act enforces the availability of Child and Youth Care Centres. b. Section 191(2) (f) of the Children's Act ensures that therapeutic programmes are designed for the reception and temporary safe care of trafficked or commercially sexually exploited children.</p>
<p>70. Does the Government collect and analyse statistical data and other information on the nature and extent of forced or compulsory labour? [1.6]</p>	<p>No</p>

72. Does the Government envisage collecting data on forced or compulsory labour? [1.6.2]	Yes
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Measures taken or envisaged to prevent forms of forced labour

74. Have measures been taken or are measures envisaged for the prevention of all forms of forced or compulsory labour? [2.1]	Yes
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75. the type of measures, [2.2]	a) Information, education and awareness raising targeting especially people in vulnerable situation and employers, b) Strengthening and broadening of the coverage of legislation, particularly labour law, f) Promotion of safe and regular migration, g) Education/vocational training, j) Basic social security guarantees
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Measures taken or envisaged to protect victims of forced labour

76. Have measures been taken or are measures envisaged for the identification, release, protection, recovery and rehabilitation of victims of all forms of forced or compulsory labour? [3.1]	Yes
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77. the type of measures [3.2]	a) Training of relevant actors for identification of forced labour practices
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Measures taken or envisaged to facilitate access to remedies

78. Have measures been taken or are measures envisaged to provide victims of all forms of forced or compulsory labour with access to remedies? [4.1]	Yes
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79. the type of measures, [4.2]	a) Information and counselling for victims regarding their rights
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80. Please indicate whether the measures aimed at providing access to justice and remedies apply to all victims of forced or compulsory labour, irrespective of their presence or legal status in the national territory. [4.3]	Yes
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Cooperation with other Member States, international / regional organizations or NGOs

<p>81. Does the Government cooperate with other member States, international and regional organizations, or non-governmental organizations to achieve the effective and sustained suppression of forced or compulsory labour? [5.1]</p>	<p>Yes</p>
<p>82. Description of the modalities of this cooperation. [5.2]</p>	<p>The Southern African Regional Police Chiefs Coordination Organisation (SARPCCO) was formed in 1995 outside the SADC Structure and had its own constitution, structures and working independently from SADC. This has been due to the fact that the Police Sector at SADC was not addressing issues of Transnational Organised Crime (T.O.C) but rather specialising in Peace Support Operations (P.S.O). INTERPOL had established an INTERPOL Regional Bureau for Southern Africa in Harare, Zimbabwe. It was deemed relevant and cost effective for SARPCCO to work together with INTERPOL to reduce duplication of resources. The United Nations Office on Drugs and Crime (UNODC) The Department of Justice and Constitutional Development launched, in collaboration with UNODC and under the framework of the Global Action against Trafficking in Persons and Smuggling of Migrants (GLO.ACT), on 25 April 2019 the Prevention and Combating of Trafficking in Persons National Policy Framework (NPF). The NPF seeks to ensure all government departments and other engaged stakeholders from civil society are collectively guided in the implementation of anti-trafficking responses and of their statutory responsibilities.</p>
<p>Special initiatives or Progress</p>	
<p>85. Description of significant changes which have taken place since your last report (for example, changes in the legislative and institutional framework, launching of major programmes, new data, changes in the number of persons in forced labour who have been identified, released and protected, penalties imposed on perpetrators). [7]</p>	<p>With regards to convictions and sentences, as mentioned in South Africa’s Trafficking in Person Report for 2022, there were eight matters which lead to convictions. These were accompanied by significant sentences, which included, amongst others, 13 sentences of life imprisonment, one of 45 years and one of 20 years imprisonment. This sends a clear message that those guilty of human trafficking will face the full might of the law.</p>
<p>CHALLENGES IN REALIZING MEASURES TARGETED BY THE PROTOCOL</p>	
<p>According to the social partners</p>	
<p>Employers’ and workers’ organizations and the Government</p>	
<p>86. What are the main obstacles encountered by your country with regard to realizing the principle of effective and sustained suppression of all forms of forced labour through prevention, victim protection and access to remedies? [8]</p>	<p>d) Social and economic circumstances, i) Challenges linked to migration policies</p>

TECHNICAL COOPERATION NEEDS

Request

87. Does your Government think that it should establish technical cooperation activities with the ILO or pursue those that already exist for the prevention and effective suppression of forced or compulsory labour, victim protection and access to remedies? [9.1]

Yes

88. the needs in this area by level of importance (not important, less important, important, most important) [9.2]

b) Awareness-raising and mobilization activities => Important

c) Collection and analysis of data and information => Important

d) Guidance on the development of the national policy and plan of action => Important

e) Strengthening the legal framework => Less Important

f) Capacity building for the competent authorities => Less Important

g) Inter-institutional coordination => Important

h) Promotion of fair recruitment and placement practices => Important

i) Promotion of fair migration policies => Important

j) Vocational training, job-creation and income-generation programmes for at-risk populations => Important

k) Basic social security guarantees => Important

l) Guidance on supporting due diligence => Important

m) Capacity building for employers' and workers' organizations => Less Important

n) Promotion of freedom of association and collective bargaining to enable at-risk workers to join workers' organizations => Important

o) Exchange of experiences between countries or regions; international cooperation => Important

p) Other => Important

89. Additional information on the top three needs that you have identified in the elimination of forced labour or compulsory labour. Please provide URL(s) to any other information you may deem necessary.

We believe that the South African legislative framework is sufficiently developed to deal with forced labour. However continuous processes of awareness raising remain key in combating forced labour. Notwithstanding, poverty eradication, job creation remains an important government strategy and all efforts are made to address this at all spheres of government and civil society.