



## COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW

**REPUBLIC OF KOREA (2017)**

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

**AND**

**REPUBLIC OF KOREA (2000-2017)<sup>1</sup>**

***THE ELIMINATION OF ALL FORMS OF FORCED OR COMPUSORY LABOUR***

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<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).

**REPUBLIC OF KOREA (2016-2017)**

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

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	YES.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: the Korea Employers' Federation (KEF)), the Federation of Korean Trade Unions (FKTU), and the Korean Confederation of Trade Unions (KCTU)) have been consulted in the preparation of the Government's report.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	No.	
	<b>Workers' organizations</b>	No.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING MEASURES TARGETED BY THE PROTOCOL</b>	<b>Ratification</b>	<b>Ratification status</b>	Republic of Korea has not yet ratified the Protocol of 2014 (P029) to the Forced Labour Convention.
		<b>Ratification intention</b>	No indication.
	<b>Existence of a policy and / or plan of action for the suppression of forced or compulsory labour</b>	<p><b>2016 – 2017 ARs:</b> The Government reported that there is 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. The Korean Government prohibits forced or compulsory labour through Article 10 (the right to pursue happiness), Article 12 (personal liberty), and Article 15 (freedom of occupation) of the Constitution of the Republic of Korea as well as Article 7 (prohibition of forced labour) of the Labor Standards Act. The Ministry of Employment and Labor (MOEL) investigates whether workplaces violate any of the provisions concerning forced labour when it conducts regular, occasional or specially-planned inspections of workplaces which take place. An investigation can also be triggered if a worker whose rights and interests are infringed upon by forced labour or a third party who is aware of such infringement reports it to the labor authorities. If any forced labour practice in violation of the Labor Standards Act is found as a result of such an inspection and investigation, it is punished by imprisonment for not more than five years or a fine of up to 30 million Korean won.</p> <p>The Government further reported that Korea has no separate special law aimed at prohibiting trafficking in persons. However, in April 2013, Korea incorporated the concept of human trafficking into its law by comprehensively defining the crime of human trafficking in the Criminal Act, the framework act that provides for the State's right to punish crimes. The crime of human trafficking was newly inserted into Article 289 of the Criminal Act. Article 292 of the same Act made it a punishable offence to kidnap/abduct or traffic in persons for the purpose of committing a new type of crime, such as labour exploitation, sex trafficking, sexual exploitation, or organ acquisition, and separate constituent requirements were established to ensure that the act of recruiting, transporting or transferring a person with the intent to commit a kidnapping/abduction or human trafficking, etc., is considered an independent crime and, thus, can be harshly punished. In addition, Article 288 (2) of the same Act stipulates that kidnapping and abducting a person for the purpose of</p>	

		labour exploitation, sex trafficking, sexual exploitation, or organ acquisition shall be punished by imprisonment for not less than two years nor more than 15 years.
	<b>Measures taken or envisaged for systematic and coordinated action</b>	<b>2017 AR:</b> The Korean government prohibits forced or compulsory labour through Article 10(the right to pursue happiness), Article 12 (personal liberty), and Article 15 (freedom of occupation) of the Constitution of the Republic of Korea as well as Article 7 (prohibition of forced labor) of the Labor Standards Act. The Ministry of Employment and Labor (MOEL) investigates whether workplaces violate any of the provisions concerning forced labour when it conducts regular, occasional or specially-planned inspections of workplaces which take place. An investigation can also be triggered if a worker whose rights and interests are infringed upon by forced labour or a third party who is aware of such infringement reports it to the labor authorities. If any forced labour practice in violation of the Labor Standards Act is found as a result of such an inspection and investigation, it is punished by imprisonment for not more than five years or a fine of up to 30 million Korean won.
	<b>Measures taken or envisaged to prevent forms of forced labour</b>	<b>2016 – 2017 ARs:</b> According to the Government: Article 7 of the Labor Standards Act prohibits all forms of forced or compulsory labour that might occur in labor relations. Any person who violates this provision is strictly punished. The provision applies to all workers under the Labor Standards Act regardless of whether they are Koreans or foreigners. The Government requires employment contracts to be in writing so that the workers themselves can clearly understand their working conditions, and consistently conducts labor inspections and awareness-raising campaigns to ensure essential working conditions, such as minimum wage compliance, the ban on overdue wages and the prohibition of forced labour.
	<b>Measures taken or envisaged to protect victims of forced labour</b>	<b>2016 – 2017 ARs:</b> The Government reported that Article 7 of the Labor Standards Act does not distinguish between types of labour, and punishes every person who causes harm by violating the provision. Article 30 of the constitution of the Republic of Korea stipulates that "citizens who have suffered bodily injury or death due to criminal acts committed by others may receive aid from the State under the conditions as prescribed by various Acts." The Crime Victim Protection Act was established according to this provision. As the Criminal Act was revised in 2013, the crime of trafficking in persons was incorporated into Korea's criminal code. Therefore, victims of human trafficking for the purpose of forced labour can receive the same support as those of other crimes.
	<b>Measures taken or envisaged to facilitate access to remedies</b>	<b>2016 – 2017 ARs:</b> According to the Government: A victim of forced labour or a third party who becomes aware of the incident can report it to the nearest regional employment and labor office. And the victim can receive counselling, legal assistance and other related support free of charge through the regional employment and labor office to seek a remedy, including receiving overdue wages owed to him/her during the period of forced labour. It is stipulated that a perpetrator of forced labour shall be punished by imprisonment for not more than five years or a fine of up to 30 million Korean Won, the heaviest of the penal provisions, which are applicable to violations of the prohibition of forced labor under Article 7 of the Labor Standards Act. The Government further reported that it allows foreigners for whom remedial proceedings are under way in relation to forced labour to enter and stay in Korea, regardless of their legal status of stay, until the remedial proceedings are concluded, in the context of protecting the human rights of foreigners. Such foreigners are granted G-1 (others) status of sojourn under Article 10 of the Immigration Control Act. Although a public official is required to notify the competent regional immigration office without delay if he/she detects a foreigner without legitimate sojourn permit, if the Ministry of Justice deems it more urgent to provide the foreigner

		<p>with a remedy, it is possible to invoke an exemption from the notification obligation to provide a remedy first.</p> <p>The Government allows foreigners for whom remedial proceedings are under way in relation to forced labour to enter and stay in Korea, regardless of their legal status of stay, until the remedial proceedings are concluded, in the context of protecting the human rights of foreigners. Such foreigners are granted G-1 (others) status of sojourn under Article 10 of the Immigration Control Act. Although a public official is required to notify the competent regional immigration office without delay if he/she detects a foreigner without legitimate sojourn permit, if it is deemed to be more urgent to provide the foreigner with a remedy, it is possible to invoke an exemption from the notification obligation to provide a remedy first. Article 84 (1) of the Immigration Control Act) states that “ If a public official finds any person subject to deportation, including foreigners without legitimate sojourn permit, in the course of performing his/her duties, he/she shall immediately inform the head of the competent regional immigration office thereof”. The crime of obstructing the exercise of rights under the Criminal Act and crimes under certain special laws, including the Act on Special Cases Concerning the Punishment, etc., of Sexual Crimes, the Employment Security Act, are subject to exemption from the notification obligation. Also, the Article 92-2(3) of the Enforcement Decree of the Immigration Control Act stipulates that a public official may be exempt from the notification obligation even when he/she finds a foreigner without legitimate sojourn, if the Minister of Justice deems it a higher priority to provide the foreigner with a remedy when the public official is carrying out affairs prescribed by the Minister of Justice, such as aiding victims of crimes and remedying human rights violations.</p>	
	<b>Non-prosecution of victims for unlawful acts that they would have been forced to carry out</b>		
	<b>Cooperation with other Member States, international / regional organizations or NGOs</b>	No.	
	<b>Promotional activities</b>		
	<b>Special initiatives/Progress</b>		
<b>CHALLENGES IN REALIZING MEASURES TARGETED BY THE PROTOCOL</b>	<b>According to the social partners</b>	<b>Employers’ organizations</b>	
		<b>Workers’ organizations</b>	
	<b>According to the Government</b>	<p><b>2016 – 2017 ARs:</b> The Government stated that forced or compulsory labour occurs mainly among the socially disadvantaged, such as people with intellectual disabilities, the old and the infirm, and the homeless, so there can often be some difficulties in remedying forced labour based on reports by the victims. The Government is making efforts to prevent victims of forced labour by identifying and inspecting workplaces likely to use forced labour. Such preventive efforts need to be expanded.</p>	
<b>TECHNICAL COOPERATION NEEDS</b>	<b>Request</b>	<p><b>2016 – 2017 ARs:</b> The Government indicated that it does not require ILO technical assistance.</p>	
	<b>Offer</b>	NIL.	

**REPUBLIC OF KOREA (2000-2017)<sup>1</sup>**

***THE ELIMINATION OF ALL FORMS OF FORCED OR COMPULSORY LABOUR***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, except for the 2003 Annual Review (AR).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the employers' organizations (Korea Employers' Federation (KEF)) and the workers' organizations (Federation of Korean Trade Unions (FKTU), the Korean Confederation of Trade Unions (KCTU)) and the Korean Federation of Public Services and Transportation Workers' Union (KPTU) through communication of Government's report.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2014 AR:</b> Observations by the KEF. <b>2013 AR:</b> Observations by the KEF. <b>2012 AR:</b> Observations by the KEF. <b>2009 AR:</b> Observations by the KEF. <b>2004 AR:</b> Observations by the KEF.	
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by the KCTU <b>2014 AR:</b> Observations by the KCTU. Observations by the KPTU. <b>2013 AR:</b> Observations by the KCTU. <b>2012 AR:</b> Observations by the KCTU. <b>2010 AR:</b> Observations by the FK TU. Observations by the KCTU.	
		<b>2007 AR:</b> Observations by the KCTU. Observations by the International Trade Union Confederation (ITUC). <b>2004 AR:</b> Observations by the KCTU. <b>2002 AR:</b> Observations by the KCTU. <b>2001 AR:</b> Observations by the ITUC. <b>2000 AR:</b> Observations by the FK TU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>The Republic of Korea has ratified neither the Forced Labour Convention, 1930 (No. 29) (C.29), nor the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).</b>
		<b>Ratification intention</b>	<b>Unable to ratify C.29 and C.105 at this time.</b> <b>2017 AR:</b> The Government reiterated that the current laws are not in full conformity with the Conventions and the Protocol. However, it stated that the incumbent administration included the ratification of Convention Nos 29 and 105 as part of its agenda. <b>2015 AR:</b> The Government reiterated that the ratification of C29 and C.105 is not foreseeable in the near future due to disparities between the provisions of ILO Conventions and domestic laws relating to supplementary military service. The Government indicated that it is very difficult to reach

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		<p>agreement with ILO as long as ILO interprets supplementary military service as constituting forced labour. It further reported that it is difficult to ratify the Conventions given the indispensability of the mandatory military service amid the confrontation on the Korean Peninsula.</p> <p>KCTU expressed full support for the ratification of C.29 and C.15, but regretted that no progress has been made in the ratification process.</p> <p><b>2014 AR:</b> According to the government: It is difficult to ratify C.29 and C.105 because ILO interprets ‘supplementary military service’ as constituting forced labour and the Conventions are contrary to the current domestic laws.</p> <p>KEF restated its support for the ratification of the Conventions despite this may not happen any time soon given the need for more time for preparation and consideration of the specific circumstances of the country in relation to forced labour related to the military service.</p> <p>The KCTU and the KPTU reiterated their support for the ratification of C.29 and C.105 by the Republic of Korea. They indicated that no progress had been made over the last year and that there were still no prospects on moving forward in the ratification process.</p> <p><b>2013 AR:</b> According to the Government: The mandatory military service requirement will remain in force until a solid peace between North and South Korea has been established. If the ILO does not consider ‘supplementary military service’ mainly performed as a form of public service as being of a purely military character, it would be difficult to ratify C.29. It is also difficult to ratify C.105 because the current domestic law can be a barrier to complying with Article 1(a) and (d) of this Convention.</p> <p>The KEF reiterated that it had no objection as concerns the ratification of C.29 and C.105 by the Republic of Korea. However, it indicated that no progress had been made in the ratification process over 2011.</p> <p>The KCTU reiterated its support for the ratification of C.29 and C.105 by the Republic of Korea. However, it indicated that the ratification processes are still outstanding and there are no prospects for them moving forward.</p>
		<p><b>2012 AR:</b> The Government reiterated the statement it made under the 2010 and 2011 ARs.</p> <p>The KEF reiterated that it had no objection as concerns the ratification of C.29 and C.105. by the Republic of Korea.</p> <p>The KCTU expressed its support for the ratification of C.29 and C.105 by the Republic of Korea.</p> <p><b>2010-2011 ARs:</b> According to the Government: It is inevitable to maintain the mandatory conscription as long as the confrontation on the Korean peninsula continues. If the ILO does not consider military service under this system as being of a purely military character, it would be difficult to ratify C.29.</p> <p><b>2009 AR:</b> The Government indicated that it was carrying out inter-ministerial consultations, which is considering possible future changes in the military system.</p> <p>The KEF reiterated that it had no objections to the ratification of C.29 and C.105 by the Republic of Korea.</p> <p><b>2007 AR:</b> According to the Government: In an effort to ratify</p>

			<p>both C.29 and C.105, the Government held a seminar on forced labour in May 2006 where ILO experts, tripartite representatives, and people from related ministries were invited to discuss the matter. The Government also organized the International Labour Policy Advisory Board to accelerate the ratification process for these instruments. However, discussion is still under way due to divergence of opinions between relevant ministries.</p> <p>The KEF and the KCTU indicated that they had no objection to the ratification of C.29 and C.105 by the Republic of Korea.</p> <p><b>2006 AR:</b> According to the Government: In 2001, the Government commissioned research to explore the feasibility of ratifying C.29 and C.105 and examine the policy tasks to be fulfilled, with the intention to ratifying both Conventions.</p> <p><b>2000 AR:</b> According to the Government: In preparing ratification of C.29 and C.105, the Government consulted with the ILO experts on these Conventions on several occasions to seek their advisory assistance on whether the Korean legal system is in compliance with the provisions of both Conventions.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES.</b></p> <p>The Constitution:</p> <ul style="list-style-type: none"> <li>- Article 10 (respect for human dignity and worth): “All citizens shall be assured of human worth and dignity and have the right to pursue happiness. It shall be the duty of the State to confirm and guarantee the fundamental and inviolable human rights of individuals”.</li> <li>- Article 12, paragraph 1 (personal liberty): “All citizens shall enjoy personal liberty. No person shall be arrested, detained, searched, seized or interrogated, except as provided by Act. No person shall be punished, placed under preventive restrictions or be subject to involuntary labour, except as provided by Act and through lawful procedures”.</li> <li>- Article 15 (freedom to choose occupations): “All citizens shall enjoy freedom of occupation”.</li> </ul>
		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b></li> </ul> <p><b>2004-2005 ARs:</b> According to the Government: There is a national policy to realize the principle and right (PR) of the elimination of all forms of forced or compulsory labour for every citizen and every worker, through the implementation of the Constitution, the Labour Standards Act (LSA), and the Criminal Act. These texts provide for the principle of human dignity and values, physical freedom, prohibition of forced labour, imprisonment under court rulings, and sanctions against violation.</p> <ul style="list-style-type: none"> <li>• <b>Legislation:</b></li> </ul> <p><b>2000 AR:</b> According to the Government, section 6 (prohibition of forced labour) of the Labour Standards Act (LSA) provides that: “An employer shall not force a worker to work against his/her own free will through the use of violence, intimidation, confinement or by any other means which unjustly restrict mental or physical freedom.” In order to secure implementation of the legal provision, penal sanctions are also contained in national laws and regulations.</p>



		<b>Basic legal provisions</b>	(i) Constitution (articles 10, 12 and 15); (ii) Labour Standards Act (LSA), sections 6 and 110; (iii) Criminal Act, sections 123, 324 and 460; and (iv) Criminal Procedure Act.
		<b>Definition of forced or compulsory labour</b>	<b>YES</b> , section 6 of the LSA gives a definition of the term “forced labour” by providing that “[a]n employer shall not force a worker to work against his own free will through the use of violence, intimidation and confinement or by any other means, which unjustly restrict mental or physical freedom”.
		<b>Judicial decisions</b>	<b>2006 AR:</b> According to the Government: There are no cases of judicial decisions resulting from the violation of the PR (under section 6 of the LSA).
<b>Exercise of the principle and right</b>		<b>Special attention to particular situations and human trafficking</b>	<p><b>2014 AR:</b> According to the KCTU: The KCTU continues to pay special attention to migrant workers in the agricultural sector and workers in precarious employment who are at risk of forced labour. Activities are being undertaken to involve the employers in the abolition of forced labour, and particularly to ensure that migrant workers do not end up in dependency of the employers as regards Visa extensions.</p> <p><b>2013 AR:</b> According to the KCTU: Special attention has been given to the agricultural sector with a view to ensuring the abolition of forced labour among vulnerable agricultural workers, in particular migrant workers. Indeed, trade unions have dealt with cases where employers are confiscating the travel documents of migrant workers, who are in poor working conditions which often turn into forced labour in the agricultural sector. If these migrants lose their employment, they will also lose their visa and legal rights to be in the country.</p>
		<b>Information/ Data collection and dissemination</b>	<b>2004 AR:</b> According to the Government: Systems for gathering information are established, but there are no meaningful statistics on forced labour because of its non-existence in the country.
<b>Prevention/monitoring, enforcement and sanctions mechanisms</b>		<p><b>2004-2007 ARs:</b> According to the Government: In realizing the PR, the following measures have been implemented: (i) inspection/monitoring mechanisms; (ii) penal sanctions; (iii) civil or administrative sanctions; and (iv) capacity building. Moreover, the prosecutors’ offices and police offices are in charge of sanctions against human trafficking and abuse of power of public servants engaged in the identification, emancipation and/or rehabilitation of persons subjected to forced labour. The Ministry of Labour monitors the implementation of the prohibition of forced labour by employers.</p> <p><b>2001 ARs:</b> According to the Government: The LSA requires employers to comply with the legal obligations concerning the prohibition of forced labour, and imposes penal sanctions in case of non-compliance.</p> <p><b>2000-2005 ARs:</b> According to the Government: Section 460 of the Criminal Procedure Act provides that the sentence of imprisonment shall be executed under the direction of a public prosecutor and in accordance with the court decision. Moreover, the Criminal Act provides for penal sanctions in the following cases:</p> <ul style="list-style-type: none"> <li>– In the case of a public official who, by abusing his official authority, forces a person to do any forced work (section 123 of the Criminal Act: abuse of authority);</li> <li>– In the case of a person who coerces another to do any forced work, by using violence or intimidation (section 324 of the Act: coercion); or</li> <li>– In the case a person who arrests, confines, captures or entices another person as hostage and makes him or her do any forced work (section 324-2 of the Act: coercion by hostage).</li> </ul>	



		<p>The responsibilities for taking action against forced labour are assumed by the police, prosecution and courts.</p> <p>Under section 110 of the LSA, an employer who forces an employee to work against his/her own free will in violation of article 6 of the LSA shall be punished by imprisonment of up to five years or by a fine not exceeding 30 million won [about US \$ 29,300 as of December 2005.] In this regard, if any law is found to be violated or if any violation is alleged, labour inspectors investigate the case and, when relevant, take measures to criminally punish the offender.</p> <p>The Ministry of Labour is responsible for: (i) applying the LSA; (ii) monitoring the implementation of the Act; (iii) ensuring labour inspection at workplace; and (iv) ensuring that measures are taken against violations of the LSA.</p> <p>Under the direction and supervision of the Ministry of Labour, labour inspectors of the 46 regional labour offices conduct workplace inspections, ask employers to make reports or attendances and act as law enforcement officers in case of violation, in order to ensure that employers fully observe their obligations with regard to the prevention and elimination of forced labour.</p>
	<p><b>Involvement of the social partners</b></p>	<p><b>2014 AR:</b> According to the KCTU: The KCTU is excluded from most social dialogue practices and the ratifications of C.29 and C.105 are not being dealt with through social dialogue.</p> <p><b>2013 AR:</b> According to the KEF: Social dialogue is exercised in the country.</p> <p>According to the KCTU: Forced labour and the ratifications of C.29 and C.105 are not being dealt with through social dialogue.</p> <p><b>2004-2007 ARs:</b> According to the Government: Tripartite examination of related issues has been implemented in realizing the PR.</p> <p>Employers' and workers' organizations have been involved in the development and implementation of government measures. Employers' and employees' organizations were consulted in revising or enacting laws related to the prohibition of forced labour.</p>
	<p><b>Promotional activities</b></p>	<p><b>2014 AR:</b> KEF participates and promotes the interest of its members in various events, social dialogues and seminars including those organised by ILO.</p> <p>The KCTU: An awareness raising campaign on the fundamental principles and rights at work has been conducted in collaboration with the Korean Teachers' and Education Workers' Union (KTU), the Korean Government Employees' Union(KGEU) and the Korean Federation of Public Services and Transportation Workers' Union (KPTU). The campaign included leaflets with information on the situation of workers' rights in the country, and requested labour law amendments to align the national legislation with international labour standards. The leaflet was designed as a letter directed towards the President of the Republic of Korea, urging the President to ratify the non-ratified ILO core Conventions without delay, including C.29 and C.105.</p> <p><b>2013 AR:</b> According to the Government: In March 2012, the Government met with ILO to discuss the ratification of C. 29.</p> <p><b>2012 AR:</b> According to the Government: In March 2009 and 2010, meetings between the ILO and the Government were organized to discuss the ratification of C.29. In addition, the Ministry of Employment and Labour carried out consultations with relevant ministries on the ratification prospects of C.29 and C.105.</p> <p>The KCTU stated that it had been organizing advocacy campaigns for promotion and ratification of C.29 and C.105.</p> <p><b>2010 AR:</b> The Government indicated that it had been cooperating with the ILO since October 2006 concerning the possibility to ratify C.29 taking into account the national context (military service system and current public interest service system).</p> <p><b>2009 AR:</b> According to the Government: The Ministry of Labour has requested the Ministry of National Defense and the Ministry of Justice to consider ILO Conventions in the reform of relevant system.</p>

		<p><b>2004-2007 ARs:</b> According to the Government: In realizing the PR, the following measures have been implemented: (i) awareness raising/advocacy; (ii) employment creation/income generation; (iii) educational programmes; (iv) rehabilitation following removal from forced labour; and (v) international cooperation programmes or projects.</p>	
	<p><b>Special initiatives</b></p>	<p><b>2008 AR:</b> According to the Government: The Government has requested the advisory assistance of the ILO on provision of interpretation on special types of military system in Korea and received comments from the Office. Moreover, the Government is carrying out inter-ministerial consultation on long-term basis, which is considering possible future changes in the military system.</p> <p><b>2007 AR:</b> The Government organized the International Labour Policy Advisory Board with a view to accelerate the ratification process for these instruments.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2014 AR:</b> KEF stated that economic crisis and high unemployment rate for the youth create some sort of burden. It also asserted that although the Korean government tries to ratify the Convention, there is a need for more time for preparation to the ratification process, particularly given the challenges associated with the mandatory military service requirements.</p> <p><b>2013 AR:</b> The KEF indicated that obstacles in the ratification of C.29 and C.105 related to the mandatory military service remain.</p>
		<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> KCTU stated that as long as the national mandatory military service persists, it will be very difficult to move forward with the ratification of C.29 and C.105. It further highlighted that attention should be paid to the issues of sex-workers, including young girls, who are subject to various forms of forced labour. In response to this comment, the Government indicated that the in Korea, sexual traffic is illegal. Sexual traffic is considered criminal act and persons who sell and buy sex are punished according to "Act on the Punishment of Acts of Arranging Sexual Traffic (of which the Ministry of Justice is in charge)". According to "Act on the Prevention of Sexual Traffic and Protection, etc. of Victims (of which the Ministry of Gender Equality &amp; Family)", victims of sexual traffic, including sex workers, are provided with services such as counselling, accommodation, medical and legal service, education on employment and skills, and vocational training in order to help their escape from prostitution.</p> <p><b>2013-2014 ARs:</b> According to the KCTU: As the situation with the national mandatory military service in has not changed, the related challenges remain. By using the pretext of the military service, the provisions of C.29 and C.105 are being violated. Additionally, cases from the cargo transportation sector have illustrated the challenging situation as regards to the right to strike. When situations of strike have arisen, the employers have sent a request to the Minister of Labour who consequently has created a situation of forced labour by forcing workers back to work by referring to a state of emergency. Cases of forced labour are also related to work carried out by prisoners, as the interpretation of forced labour by the Government differs from that of the ILO.</p> <p><b>2012 AR:</b> According to KCTU: The main challenge to the ratification of C.29 and C.105 is the mandatory military service which has exemptions for inapt individuals who are then reoriented towards public services (national parks, teaching, etc.) without any pay or benefits for over two years.</p>

		<p>However, political will is needed to adjust the military service activities so to make it non-contradictory to C.105. Although forced labour is not widely spread in the country, it has been experienced by trade union members participating in strikes.</p> <p><b>2010 AR:</b> The FKTU and the KCTU observed that despite the general prohibition of forced labour in the country, various forms of forced/compulsory labour were observed (for example, compulsory duties for public servants).</p> <p><b>2004 AR:</b> The KCTU observed that despite the Government’s comment on the general prohibition of forced labour in the country, various forms of forced/compulsory labour were found at workplaces, involving especially migrant workers.</p> <p>No particular challenges were raised in the ITUC’s comments.</p> <p><b>2001 AR:</b> No particular challenges were raised in the ICFTU’s comments.</p> <p><b>2000 AR:</b> According to the FKTU: Some employers abuse the position of those workers who have chosen to work rather than carrying out their military service.</p>
	<p><b>According to the Government</b></p>	<p><b>2017 AR:</b> The Government reiterated that the existing legal provisions pose challenges for the ratification of the Conventions.</p> <p><b>2015 AR:</b> The Government stated that given lack of conformity between domestic laws and the provisions of C.29 and C.105, it would be very difficult to reach agreement with ILO, and this makes the ratification process slow and complicated. It indicated that regarding C.29, the ILO interprets the services provided by unarmed public service personnel as not purely military and that regarding C.105, the current domestic laws, such as the National Security Act and the Criminal Act, are contrary to the Convention.</p> <p><b>2014 AR:</b> According to the Government: Regarding C.29, supplementary military service is not included as ‘work of a purely military character’ under Article 2. Given that imprisonment comes with prison labor based on criminal law, punishments under the National Security Act and etc. can be understood as forced or compulsory labour under C.105.</p> <p><b>2013 AR:</b> According to the Government: Regarding C.29, the ILO interprets the services provided by non-armed public service personnel as being of a non-purely military and non-voluntary nature. Regarding C.105, under current domestic law those convicted of violating the National Security Act or participating in unprotected strikes involving violence and destruction of property are subject to imprisonment and prison labour. In response to the KCTU’s observations, the Government indicated the following: (i) Reorientation towards public services doesn’t mean the “exemption” from military service but an “alternative” to military service; (ii) Public service personnel do get paid; (iii) The reason why Korea is currently unable to ratify C.105 is not related to the need to maintain mandatory conscription; (iv) With regard to the sentence, “it has been experienced by trade union members participating in strikes,” it shouldn’t be understood as meaning that trade union members participating in legitimate and peaceful strikes have experienced forced labour. It actually means workers engaging in unprotected strikes involving violence and destruction of property are subject to imprisonment and prison labour.</p> <p><b>2010-2012 ARs:</b> According to the Government: The challenges remain as follows: (i) the military service system; (ii) the current public interest service system; and (iii) the fact that the criminal punishment of political criminals and workers’ strikes includes forced prison labour.</p> <p><b>2008 AR:</b> With regards to the KCTU’s observations in the 2004 AR alleging that various forms of forced/compulsory labour were found at workplaces involving especially foreign workers, the Government indicated that in 1992, in order to</p>

		<p>respond to labour shortage and to reduce the number of undocumented workers, Korea introduced the Industrial Trainee System (ITS), which was in force until January 2007. However, as the ITS was a system which was more focused on training foreign trainees, it had certain limits as an employment system for foreign workers. Therefore, in 2004 the Korean Government introduced a new system for foreign workers' employment, the Employment Permit System. Under this system in force since 2004, the rights of foreign workers was significantly reinforced and much of the problems have been resolved, thanks to the provision on non-discrimination against foreign workers in the EPS Act, which allowed labour-related laws to be applicable equally to foreign workers and nationals, providing equal level of protection in case of infringement of foreign workers' rights.</p> <p><b>2007 AR:</b> According to the Government: Because of its unique military situation, such as military confrontation with North Korea, the Republic of Korea adheres to the universal conscription system (compulsory military service). In this respect, it is needed to interpret and review special types of military service, etc.</p> <p><b>2004 AR:</b> In response to KCTU's comments, the Government indicated that separate statistics on forced labour were expected to be compiled owing to the computerization of labour inspection. With regard to forced labour of migrant workers, the Government mentioned that it had made active efforts to prevent employers from forcing foreign workers to work.</p> <p><b>2002 AR:</b> In response to KCTU's comments, the Government observed that, in line with the objectives of the 1998 ILO Declaration, the follow-up should be of a strictly promotional nature and for technical cooperation, which would help ILO member States to implement effectively the core Conventions. In this regard, the KCTU's comments under the 2002 Annual Review were not compatible with the basic objectives of the 1998 ILO Declaration and its follow-up.</p>
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2017 AR:</b> The Government indicated that there is a need for technical assistance to undertake legal reform, including labour law and other relevant legislations.</p> <p><b>2015 AR:</b> The Government reiterated the statement it made under the AR 2014. According to the KCTU, there is a need for ILO technical cooperation to support and promote a permanent social dialogue with the Government on military services issues and its connections with various forms of forced labour.</p> <p><b>2014 AR:</b> According to the Government: The Government may need ILO's support when preparing for the ratification of the Conventions, for example in interpreting whether domestic legislation is in conformity with the Conventions. The Government will request support from the ILO if the need occurs.</p> <p>KEF advised that ILO should provide support by conducting research in relation to labour law reform and in terms of devising initiatives to address high unemployment rate.</p> <p>The KCTU reiterated its request for technical cooperation made in the 2012-2013 ARs, re-emphasizing the need to find a solution to how the Government should deal with forced labour as concerns military services.</p> <p><b>2013 AR:</b> The Korean Government may need ILO's support when preparing for the ratification of C.29 and C.105, for example in interpreting whether domestic legislation is in conformity with the Conventions. The Government will request support from the ILO, should this need arise.</p> <p>The KCTU reiterated its request for technical cooperation made in the 2012 AR emphasizing that the crucial need to find a solution to how the Government should deal with forced labour as concerns military services.</p> <p><b>2012 AR:</b> According to the Government: ILO advisory assistance would be requested concerning the compliance of domestic legislation to the PR, when considering the ratification of the C.29 and C.105.</p> <p>The KEF requested the ILO to provide training on the PR.</p> <p>According to the KCTU: ILO's technical assistance is needed in finding a solution to how the Government should deal with the issue forced labour as concerns military services.</p> <p><b>2010-2011 ARs:</b> According to the Government: ILO's technical support</p>

		<p>concerning the compliance of the current military system vis-à-vis the PR may be needed, and would be requested by the Government in due course.</p> <p>According to the KCTU: ILO’s technical cooperation is needed for public awareness raising campaign and for a better understanding of the PR.</p> <p><b>2008 AR:</b> According to the Government: The Government requests further advisory assistance in its process of considering the ratification of the conventions including the interpretation of whether special types of military services constitute compulsory labour or not.</p> <p><b>2007 AR:</b> The Government requested the ILO to provide advisory assistance in interpreting special types of military service.</p>
	<p><b>Offer</b></p>	<p>ILO, ILO/IPEC.</p>
<p><b>EXPERT-ADVISERS’ RECOMMENDATIONS</b></p>		<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) listed the Republic of Korea among the countries having expressed their intention to ratify C.29 and/or C.105 or to complete the ratification process. They encouraged these countries to accelerate this process so as to make an important step forward towards universal ratification. In particular, the IDEAs encouraged the Government of the Republic of Korea (and four other governments) to initiate or finalize their national labour law review processes. In strengthening and reforming their legal framework in compliance with international labour standards, these countries would allow a better implementation of the principle and right. Finally, the IDEAs noted that a number of governments, employers’ or workers’ organizations in various countries, including the Republic of Korea, were willing to meet these challenges and had requested technical cooperation, with a view to realizing country assessments and workshops with the support of the ILO. (cf. paragraphs 12, 41, 43 and 51 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs encouraged the Government of the Republic of Korea (and four other governments) that had expressed their intention to ratify C.29 and/or C.105 to complete the process. The IDEAs also welcomed the significant increase in the reports of action to combat forced labour in several countries, including the Republic of Korea, and noted that an increasing number of States were recognizing that forced labour does exist in their country [...]. For the IDEAs, such recognition was indispensable to combating forced or compulsory labour, as it was undoubtedly the first step in what in a daunting but essential task (cf. paragraphs 40 and 41 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p><b>2005 AR:</b> The IDEAs listed the Republic of Korea among the countries where some efforts were being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification (cf. paragraph 13 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>
<p><b>GOVERNING BODY OBSERVATIONS / RECOMMENDATIONS</b></p>		<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>		<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period</p>

2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).