



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2008)<sup>1</sup>: SOMALIA**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	YES, since the 2006 Annual Review (AR). No change report under the 2007 AR (national crisis).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<p><b>2008 AR:</b> According to the Government: The Somalia Employers' Association (SEA) has been established in January 2007. Small workers' unions have been also established, but the umbrella national union is yet to be established, as part of an ongoing process.</p> <p>According to the Government: A process is being developed in view of establishing in the country new employers' and workers' organizations.</p>	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	NIL	
	<b>Workers' organizations</b>	NIL	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Somalia has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b>
		<b>Ratification intention</b>	<p><b>Ratification intention for C.87 and C.98 since 2007.</b></p> <p><b>2008 AR:</b> According to the Government: The Government is yet to receive the ILO technical assistance, which was requested in 2005. Once this technical guidance is received, the Government will start the ratification process in consultation with the social partners. The Government intends to ratify the ILO Fundamental Conventions, but still lacks technical capacities.</p> <p><b>2006 AR:</b> According to the Government: With a view to considering ratification of all ILO Fundamental Conventions, the Government would appreciate receiving ILO technical assistance in organizing a national workshop on labour standards and the Declaration on Fundamental Principles and Rights at Work (FPRW).</p>
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES</b> , the principle of freedom of association and the effective recognition of the right to collective bargaining (PR) is recognized in Somalia under articles 19.1 a) and 22.1 a) of the 2004 Somali Transitional Federal Charter (STFC).

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the Government under the Declaration Annual Review, 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 or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>

		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Legislation</b></li> </ul> <p><b>2008 AR:</b> According to the Government: Law No. 65 of 18 October 1972 deals with regulations on civil servants was revised and adopted by the Parliament. As a result, an independent new Civil Service Commission (CSC) was established and will deal with terms and conditions of civil servants. The principle of freedom of association and the effective recognition of the right to collective bargaining is recognized in Somalia under Sections 9-30 of the Labour Code, Law No. 65 of 18 October 1972.</p>		
		<b>Basic legal provisions</b>	(i) The 2004 Somali Transitional Federal Charter (STFC) (articles 19.1 a) and 22.1 a), (ii) the Labour Code, Law No. 65 of 18 October 1972 (sections 9-30).		
		<b>Judicial decisions</b>	NIL		
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2006 AR:</b> Government authorization or approval is required neither to establish an employers' organization (in accordance with article 14.2 b) of the Somali Transitional Federal Charter (STFC), nor to conclude collective agreements. The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry, national (and international), levels for all categories of employers.	
			<b>For Workers</b>	<b>2006 AR:</b> Government authorization or approval is required neither to establish a workers' organization (in accordance with Article 14.2 b9 of the Somali Transitional Federal Charter (STFC), nor to conclude collective agreements. The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry, national (and international) levels for the following categories of workers: (i) all workers in the public service; (ii) medical professionals; (iii) teachers; (iv) agricultural workers; (v) workers engaged in domestic work; (vi) workers in export processing zones (EPZs) or enterprises/industries with EPZs status; (vii) migrant workers; (viii) workers above the age 15 years under certain conditions (section 11 of the Labour Code) and (ix) workers in the informal economy.	
			<b>Special attention to particular situations</b>	NIL	
			<b>Information/ Data collection and dissemination</b>	NIL	
			<b>At international level</b>	According to the Government: The principle and right (PR) is recognized at international level for employers' and workers' organizations.	
	<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2008 AR:</b> According to the Government: As a result of the adoption of Law No. 65 of 8 October 1972, an independent new Civil Service Commission (CSC) was established, which will deal with terms and conditions of civil servants.</p> <p><b>2006 AR:</b> According to the Government: No specific measures have been implemented to respect, promote and realize the principle and right in the country. In instances where the principle of freedom of association and the effective recognition of the right to collective bargaining has not been respected, penalties, including fines and imprisonment, are provided for under Part X (sections 143-146) of the Labour Code.</p>		

	<b>Involvement of the social partners</b>	NIL	
	<b>Promotional activities</b>	<p><b>2008 AR:</b> The Government indicated that a government official was trained on International Labour Standards (ILS) and the Declaration Follow-up between May-June 2007 under the sponsorship of the ILO in Geneva and Turin.</p> <p><b>2006 AR:</b> According to the Government: No specific measures have been implemented to respect, promote and realize the principle and right in the country. However, after 15 years of civil war and political turmoil, a Transitional Federal Parliament and Transitional Federal Government have been formed in 2004 in Nairobi, Kenya. A process has been initiated in view of establishing in the country a new labour administration, new employers' and workers' organizations, new tripartite institutions, revised labour laws and new labour courts.</p>	
	<b>Special initiatives/Progress</b>	NIL.	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	NIL
		<b>Workers' organizations</b>	NIL
	<b>According to the Government</b>	<p><b>2008 AR:</b> The Government is endeavouring to establish a total peace in the country. As a result of a long period of instability, the Government has no record for reference purpose. There is also a lack of technical personnel and financial means. This also goes for the employers' and workers' organizations that need training and capacity building.</p> <p><b>2007 AR:</b> The Government reported no change because of difficult national circumstances.</p> <p><b>2006 AR:</b> The main difficulties encountered in realizing the PR in Somalia are as follows: (i) lack of public awareness and support; (ii) lack of information and data; (iii) social and economic circumstances; (iv) political situation; (v) lack of capacity of responsible government institutions; (vi) lack of capacity of employers' organizations; (vii) lack of capacity of workers' organizations and (viii) lack of social dialogue on the PR.</p>	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2008 AR:</b> The Government reiterated its request for urgent ILO assistance to establishing labour administration in general. It requested once again ILO assistance for the realization of a country assessment followed by a national tripartite workshop on labour standards and the Declaration Follow-up.</p> <p><b>2006 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in Somalia, in particular in the following areas, in order of priority: (1) Capacity building of responsible government institutions; (2) Strengthening capacity of workers' organizations; (3) Strengthening capacity of employers' organizations; (4) Strengthening social dialogue; (5) Training of other officials (police, judiciary, social workers, teachers); (6) Assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; (7) Legal reform (labour law and other relevant legislation); (8) Awareness-raising, legal literacy and advocacy; (9) Strengthening data collection and capacity for statistical analysis; (10) Sharing of experiences across countries/regions;</p> <p>Moreover, in the current historical and instrumental process of national peace, stability and reconstruction, the ILO assistance is most needed to enable the Government to apply the Conventions in law and practice and report accordingly. In view of considering the ratification of all ILO Fundamental Conventions, the Government would appreciate receiving ILO technical assistance in organizing a national workshop on labour standards and the Declaration on Fundamental Principles and Rights at Work.</p>	

<b>TECHNICAL COOPERATION</b>	<b>Offer</b>	ILO: Assistance in reporting under the Declaration' Annual Review and training of a Government official on international labour standards and the ILO Declaration.
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) noted that some countries facing structural difficulties, such as Somalia (and three other countries), were able to report with ILO assistance. They encouraged Somalia to initiate the necessary labour law reforms to remove the obstacles to ratification of C.87 and C.98. Finally the IDEAs acknowledged the high number of promotional activities concerning the realization of the PR in Somalia (and some other countries), and encouraged the Office to maintain its support to these activities (Cf. Paragraphs 25, 32 and 35 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2006 AR:</b> The IDEAs encouraged the Government of Somalia that had provided its first report under the Declaration to follow up and had expressed its willingness to ratify C.87 and C.98 (Cf. Paragraph 34 of the 2006 Annual Review Introduction – ILO: GB.295/5).</p> <p><b>2005 AR:</b> The IDEAs looked forward to receiving a first reply from the Somalia and other countries that had never reported under the Declaration Annual Review (Cf. Paragraph 8 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p> <p><b>2003-2004 ARs:</b> The IDEAs expressed concern that several countries, including Somalia, had never reported under the Declaration Annual review. They recommended that the Office initiate a dialogue with Somalia and other countries that had never reported under the Declaration Annual Review (Cf. Paragraph 9 of the 2003 Annual Review Introduction – ILO: GB: 286/4 and Paragraph 16 of the 2004 Annual Review Introduction – ILO: GB.289/4, for example).</p>	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	