



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2008)¹: SAMOA

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

REPORTING	Fulfillment of Government's reporting obligations	YES , under the 2006 Annual Review (AR). Samoa became an ILO member State in 2005.
	Involvement of Employers' and Workers' organizations in the reporting process	YES , according to Government: Involvement of the employers' organizations (the Public Service Commission (PSC); the Samoa Association of Manufacturers and Exporters (SAME); and the Samoa Chamber of Commerce and Industry (CCI)) and workers' organizations (the Samoa Public Service Association (PSA); the Yazaki Employees' Association (YEA); the ANZ Staff Association; and the Polynesian Airlines Staff Association (PASA) by means of consultation and communication of a copy of Government's reports.
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2006 AR: Observations by the SAME. Observations by the CCI.
	Workers' organizations	2006 AR: Observations by the PSA. Observations by the YEA. Observations by the PASA.

¹ 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>

EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	Samoa 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).		
		Ratification intention	<p>Under consideration for both C.87 and C.98.</p> <p>2008 AR: According to the Government: ILO technical assistance in order to better understand international labour standards (ILS) and the Declaration and a labour law review are necessary before the process of ratification of C.87 and C.98 can be initiated in Samoa.</p> <p>2006 AR: The Government enjoyed the employers' and workers' organizations' (CCI, SAME, PSA, YEA and PASA) support for ratification of all ILO fundamental Conventions by Samoa.</p>		
	Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution	YES , the national Constitution, Article 13, provides for freedom of association, including the rights of all citizens to form associations or unions.		
		Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Legislation The principle of freedom of association is recognized under the Labour and Employment Act, 1972. • Regulations The principle of freedom of association is recognized under the Labour and Employment Regulations, 1973. 		
		Basic legal provisions	(i) The Constitution (Article 13); (ii) the Labour and Employment Act, 1972; and the Labour and Employment Regulations, 1973.		
		Judicial decisions	NIL		
	Exercise of the principle and right	At national level (enterprise, sector/industry, national)	For Employers	Government authorisation is not required to establish employers' organisations. 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.	
			For Workers	Government authorisation is not required to establish workers' organisations. 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; and (viii) workers in the informal economy.	
			Special attention to particular situations	NIL	
			Information/Data collection and dissemination	NIL	
		At international level	According to the Government: The PR is recognized at international level for employers' and workers' organizations.		

EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Monitoring, enforcement and sanctions mechanisms	<p>2006-2007 ARs: According to the Government: No specific governmental measures have been implemented or are envisaged to further promote and realize the PR in the country. In instances where the Government finds that the PR has not been respected, the Ministry of Commerce, Industry and Labour advises the employers and workers, and may take legal action.</p> <p>According to the SAME: Under the Labour and Employment Act 1972, «arbitration» is a function of the judiciary/court only. Conciliation is a more informal process and may be undertaken by the Commissioner or a Committee appointed for that purpose.</p> <p>2006 AR: According to the SAME: The Commissioner of Labour generally plays a role of conciliation in case of conflict.</p>	
	Involvement of the social partners	NIL	
	Promotional activities	NIL	
	Special initiatives/Progress	NIL	
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	<p>2006 AR: According to the SAME: The main difficulties encountered in Samoa in realizing the PR are as follows: (i) lack of public awareness and support (greater powers conferred to the authority due to the culture, leading to lack of negotiation); (ii) social and economic circumstances make it difficult to realize the PR in the country; (iii) real weakness among Samoa organizations in addressing labour issues.</p> <p>According to the CCI: the main difficulties encountered in Samoa in realizing the PR are the following: (i) ⇆ social values, cultural traditions (consideration has to be given to the Samoan culture and its impact on the PR; (ii) lack of public awareness and support; (iii) legislation; and (iv) enforcement mechanisms.</p>
		Workers' organizations	<p>2006 AR: The PASA shared the SAME's views concerning the difficulties encountered for the realization of the PR in the country.</p> <p>According to the YEA: The main difficulties encountered in Samoa in realizing the PR are as follows: (i) lack of public awareness and support; and (ii) social and cultural values.</p>
	According to Government	<p>2008 AR: The Government indicated the following challenges: (i) legal provisions are weak; (ii) lack of public awareness; (iii) capacity building is weak and (iv) labour inspection is weak.</p> <p>2006 AR: According to Government: The main difficulties encountered in Samoa in realizing the PR are as follows: (i) lack of public awareness and support; (ii) social values, cultural traditions; (iii) legal provisions; (iv) lack of capacity of responsible government institutions; (v) lack of capacity of employers' organizations; (vi) lack of capacity of workers' organizations; and (vii) lack of social dialogue on the PR.</p> <p>The Government agrees with the views expressed by CCI, PASA, PSA, SAME and YEA.</p>	

<p>TECHNICAL COOPERATION</p>	<p>Request</p>	<p>2008 AR: The Government request ILO assistance to carry out a country assessment to be validated by a national tripartite workshop on the FPRW.</p> <p>2006 AR: According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in Samoa, in particular in the following areas, in order of priority: (1) Assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; Awareness-raising, legal literacy and advocacy; Strengthening data collection and capacity for statistical analysis; Sharing of experiences across countries/regions; Legal reform (labour law and other relevant legislation); Capacity building of responsible government institutions; Strengthening capacity of employers' organizations; Strengthening capacity of workers' organizations; Strengthening social dialogue; and (2) Training of other officials (police, judiciary, social workers, teachers). These priorities may be satisfied through the preparation (survey and validation seminar) and launch of a national Declaration Programme for Samoa.</p> <p>All employers' and workers' organizations supported the Government's request for ILO technical cooperation, including the launch of an ILO Declaration Programme to facilitate the promotion and realization of the fundamental principles and rights at work in Samoa.</p> <p>According to the CCI, the ILO technical cooperation would be necessary to assist in the realization of the principle and right in Samoa in the following areas: (i) greater public awareness on the principle and right as well as on the relevant legislation, including a focus on benefits/positives aspects of the principle and right from workers' and employers' viewpoints; (ii) labour law reform; (iii) enforcement mechanisms; and (iv) launch of an ILO Declaration Programme to facilitate the realization of the fundamental principles and rights at work.</p> <p>According to the PSA and the PASA, the ILO technical cooperation would be necessary to facilitate the realization of this principle and right in Samoa in the following areas: (i) strengthening capacity building of workers' organizations (especially on freedom of association and collective bargaining tools); (ii) implementing labour law reform; and (iii) launch of an ILO Declaration Programme to facilitate the promotion and realization of the fundamental principles and rights at work.</p> <p>According to the YEA, the ILO technical cooperation would be necessary to facilitate the realization of this principle and right in Samoa in the following areas: (i) legislative reforms in compliance with the principle and right; (ii) awareness raising activities; and (iii) establishment of tripartite institutions.</p> <p>The Government agreed with the views expressed by PASA, PSA, SAME and YEA. It also supported the CCI stand on the need to highlight the benefits/positive aspects of each PR from both the workers' and the employers' viewpoints.</p>
<p>TECHNICAL COOPERATION</p>	<p>Offer</p>	<p>ILO: Assistance in reporting under the Declaration's Annual Review.</p>
<p>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</p>	<p>2008 AR: The ILO Declaration Expert-Advisers (IDEAs) observed that the Annual Review had made it possible to highlight and follow up country situations that required greater attention, and that some countries such as new member States, in particular in the South Pacific (as well as China and the Gulf States) had made important efforts during this process. However, according to them, more needed to be done. They encouraged Samoa to initiate the necessary labour law reforms to remove the obstacles to ratification of C.87 and C.98 (Cf. Paragraphs 12 and 32 of the 2008 AR Introduction – ILO: GB.301/3).</p> <p>2006 AR: The IDEAs encouraged the Government of Samoa 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>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</p>	<p>NIL</p>	