
Committee on the Application of Standards

**Information supplied by governments on
the application of ratified Conventions**

Zimbabwe

Convention No. 98

Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Zimbabwe (Ratification: 1995). The Government has provided the following written information.

Advance supply of information to the Committee on the Application of standards in respect of the observance by the Government of Zimbabwe of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

1. In 2010, the Government of Zimbabwe unequivocally accepted all the Recommendations of the ILO Commission of Inquiry and proceeded to devote a lot of effort to full implementation of the same, on a wholly tripartite basis. In its last deliberations on Zimbabwe in 2013 *vis-a-vis* ILO Convention on freedom of association and the right to organize, 1948 (no 87), the Committee on the Application of Standards noted the progress that had been achieved in the implementation of the Recommendations and encouraged the government to continue making progress. Since that time even greater strides have been made, both in law and in practice, to fully implement Convention nos. 87 and 98. The basis of much of the progress has been the adoption of Constitutional Amendment no. 20 of 2013 which fully domesticated the principles and provisions of convention nos. 87 and 98 by expressly guaranteeing the rights to freedom of association, to collective bargaining and to organise, including the right to collective job action, in section 65 of the Bill of Rights. The remaining elements of the on-going reforms include harmonisation of the various labour statutes to the new Constitution for easier legal interpretation so as to effectively guarantee the rights in the two ratified conventions.
2. Considerable progress has been made to date to finalise the Labour Law Reform exercise to take into account outstanding comments of the ILO supervisory bodies. A duly appointed Tripartite Labour Law Reform Advisory Council, working under the oversight of the Tripartite Negotiating Forum (TNF) completed the redrafting of the Principles for the Amendment of the Labour Act during the period February to April 2016. On 22 May 2016, the Principals of the TNF, that is, the Minister of Public Service, Labour and Social Welfare and Presidents from both Business and Labour organisations, commenced deliberations on the Council's recommendations and agreed to finalise the discussions by 31 August 2016 to pave way for the drafting of a Labour Amendment Bill.

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3. More specifically on convention no. 98, the latest report of the Committee of Experts on the Application of Conventions and Recommendations notes the extensive progress so far realised but goes on to express a few concerns on articles 1 and 4 only, for which the Government of Zimbabwe is happy to share the following clarifications and information:
- a) **Protection against anti-union discrimination in practice:** Sections 4 and 7 of the Labour Act already provides for protection against acts of anti-union discrimination by providing for penal sanctions against employers that violate "*employees' entitlement to membership of trade unions and workers committees*" and "*employees' right to democracy in the work place*", including custodial sentences for periods of up to 2 years. Section 89(2)(c) of the Labour Act further legislates for reinstatement or employment for anyone unlawfully dismissed, including the awarding of punitive damages where reinstatement is deemed no longer possible. Furthermore, section 65(2) of the Constitution of Zimbabwe states that "*except for members of the security services, every person has the right to form and join trade unions and employee or employers' organisations of their choice, and to participate in the lawful activities of those unions and organisations*". The challenge in practice may therefore be generally inadequate capacity on the part of trade union members to sufficiently assert the existing rights in courts of law. In order to address the issues at stake, from 31 August to 3 September 2015 government engaged all Labour Court Judges in training sessions facilitated by ILO specialists from the Decent Work Team in Pretoria, South Africa, to sensitise them on how to better protect workers in cases of anti-union discrimination, among other issues. Going forward, the government is also committed to discussing with the social partners ways to undertake legal and practical reforms to make protection against anti-union discrimination more user friendly and accessible. The government is indeed confident that these efforts will lead to better application of Convention no. 98.
 - b) **Scope of collective bargaining:** As the Committee of Experts notes (with interest), the Constitution of Zimbabwe has extended collective bargaining to public servants. In order to fully guarantee the constitutional right to collective bargaining, the Public Service Act is already at an advanced stage of being harmonised with the Constitution in line with Principles agreed to by workers' representatives in the public service. While these amendments are being processed, workers in the public service are now able to collectively bargain within the National Joint Negotiation Council.
 - c) **Prior approval of collective bargaining agreements:** The Government of Zimbabwe and the social partners, through the tripartite Labour Law Advisory Council, have agreed on amendments to the Labour Act to incorporate the recommendations of the Committee of Experts by amending section 79 to limit the requirements for registration of collective bargaining agreements to "procedural flaws and representations made by the parties themselves" as recommended by the Committee of Experts.
4. It is pertinent to report that in the context of convention no. 87, the Government of Zimbabwe has recently complied with the recommendations of the Committee on Freedom of Association of March 2016 to register two workers organisations whose registration had previously been turned down. The Government of Zimbabwe is therefore committed to continue working with the social partners in fulfilling its international obligations with respect to ratified conventions.