

Model

Trade Union Agreement on Migrant Workers' Rights

Agreement between:

Organization(s) in the country of origin:

And

Organization(s) in the country of destination:

The (names of the signing organizations):

The following points can be included as a preamble to bilateral trade union agreements:

Aware of the importance of migration for employment between (names of the two countries) and their positive contribution to the economies of both the country of origin of migrant workers and the country of destination [hereafter both parties].

Convinced that the benefits of labour migration for (names of the two countries), their national workers, and the migrant workers themselves, can best be maximized through the effective promotion and respect of workers' rights, including basic human rights, and fundamental principles and rights at work enshrined in UN and ILO Conventions, and through the promotion of decent work for all.

Equally convinced that the situation of migrant workers should be addressed through the principles of international trade union solidarity, social justice, equal treatment, equal opportunity, and gender equity.

Reaffirming that freedom of association is a central and non-negotiable principle and that the participation of migrant workers in trade unions contributes to their integration into the society of the countries of destination.

Key principles

Signatories to trade union bilateral agreements may wish to agree on the following key principles in addressing issues related to the rights of migrant workers:

- Provisions of the ILO Constitution and the Philadelphia Declaration which, amongst other things, proclaim that labour is not a commodity.
- Provisions of the ILO Multilateral Framework on Labour Migration which, amongst others, affirm that all ILO Conventions, unless stated otherwise, apply equally to migrant workers, regardless of their status; and provide basic principles and practical guidelines and best practices for a rights-based approach to labour migration.
- Provisions of ILO Conventions No.97 on Migration for Employment, 1949, and No.143 on Migrant Workers (Supplementary Provisions), 1975, and the

International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990, which together represent a charter for the rights of migrant workers and provide for sound migration policies based on cooperation between countries, social dialogue and the development of legal migration avenues based on labour market needs, as well as other social and economic factors.

- Provisions of international human rights treaties with particular reference to the right of universal access to healthcare.
- Provisions of national and international laws and jurisprudences to the effect that once an employment relationship has been established, all workers should enjoy the full panoply of labour rights included in internationally-recognized standards, the country's legislation and applicable collective agreements.

Trade Union Campaigns

The signatories to trade union bilateral agreements may wish to agree to carry out joint trade union campaigns:

- To raise awareness about the positive contribution of labour migration to the economies of both the countries of origin and the countries of destination of migrant workers, as well as their contribution to the promotion of cultural diversity and international cooperation; and to raise awareness of migrant workers about their rights and the general situation of the destination countries before departure through making information available in the languages of migrant workers.
- To actively campaign against racism and xenophobia in society and combat discrimination and misleading propaganda in both the countries of origin and countries of destination of migrant workers.
- To actively promote the ratification of International Labour Conventions No. 97 and No. 143 and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990) as well as ILO Conventions dealing with public and private employment agencies.
- To fully support the work undertaken by the ILO to develop an international convention to promote decent work for domestic workers.
- To raise the specific concerns of migrant workers in their national tripartite labour committees and encourage affiliated unions to integrate them in collective bargaining with employers; and ensure that labour legislation and collective agreements fully protect all migrant workers, including those involved in temporary labour migration programmes.

- To take specific measures to address occupational health and safety and housing concerns of migrant workers, particularly in sectors known for dangerous working conditions, as well as to promote special protection for particularly vulnerable workers, such as domestic and agricultural workers.

Other actions

The signatories to the bilateral trade union agreements may wish to commit themselves to undertake the following actions:

- To develop regular communication channels and networking at the highest level between organizations party to this agreement, through the holding of regular seminars, pre-departure union training, and orientation programmes on arrival in the destination countries to acquaint themselves with their new environment, as well as organizing conferences on issues related to labour migration and workers' rights, and to exchange information on the labour market situations of their respective countries.
- To set up migrant workers' consultative bodies and special migrant workers' desks, within their organizations, so as to reach out and organize migrant workers and ensure they may join the trade union in the country of destination, may participate in union activities and may obtain trade union protection in case of abuses and violations of their rights.
- To establish information centres for migrant workers as part of their efforts aimed at guaranteeing ways of protecting migrant workers: in countries of origin before they consider migration, in the migration process, and upon arrival in the countries of destination, during their stay and in the process of returning home, with special efforts to provide both potential migrants, and migrants with information material in their native languages.
- To develop joint measures, including legal support, for immediate action to denounce abusive practices and to find solutions to them through legal remedies or other available dispute-resolution mechanisms.
- To encourage affiliated unions in both countries to build up cooperation, particularly in sectors where migrant workers are present.
- To undertake joint trade union activities to mark International Migrant Workers' Day on 18 December.
- To organize regular cross-border meetings and joint evaluation of progress made in the implementation of bilateral agreements in order to propose possible measures for improvements as appropriate.

Other promotional efforts

The signatories to bilateral trade union agreements may wish to commit themselves to jointly promote:

- Cooperation between the governments of the countries of origin of migrant workers and their countries of destination to enhance governance of migration, in the fields of the establishment of legal avenues for labour migration, the strengthening of labour inspection, legal cooperation in the case of trafficking and abusive situations, and issues of maintenance of social security entitlements and the strict supervision and control of activities by recruitment and employment agencies (in conformity with ILO Convention No. 181 on Private Employment Agencies), and subcontractors, as well as the elimination of abuse of sponsorship schemes.
- The establishment of communication and negotiations between their trade union organizations and employers' associations and recruitment and employment agencies in their respective countries so as to secure better conditions for migrant workers and non-migrant workers alike, and combat exploitation and social dumping.
- The development of a model and unified employment contract for migrant workers, based on the provisions of international labour standards and enforced through national legislation and labour inspection.
- Initiatives aimed at securing the involvement of trade unions in the development of bilateral agreements between governments of destination and origin countries, and the setting up of national tripartite consultation mechanisms and bilateral cooperation forums to discuss and formulate rights-based migration policies, taking into account labour market needs and the possible expansion and facilitation of legal channels as a means of eliminating the exploitation and abusive conditions of workers trapped in irregular situations.
- Tripartite consultation and decision-making mechanisms to address situations related to the status of migrant workers, social protection aspects and possibly encourage measures facilitating the regularization of the status of migrant workers trapped in irregular situations.