

INTERNATIONAL LABOUR OFFICE GENEVA

REPORT FORM

FOR THE

WORKERS' REPRESENTATIVES CONVENTION, 1971 (No. 135)

The present report form is for the use of countries which have ratified the Convention. It has been approved by the Governing Body of the International Labour Office, in accordance with article 22 of the ILO Constitution, which reads as follows: "Each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of the Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request."

The Government may deem it useful to consult the appended text of the Workers' Representatives Recommendation, 1971 (No. 143), the provisions of which supplement the present Convention and can contribute to a better understanding of its requirements and facilitate its application.

PRACTICAL GUIDANCE FOR DRAWING UP REPORTS

First report

If this is your Government's first report following the entry into force of the Convention in your country, full information should be given on each of the provisions of the Convention and on each of the questions set out in the report form.

Subsequent reports

In subsequent reports, information need normally be given only on the following points:

- (a) any new legislative or other measures affecting the application of the Convention;

- (b) replies to the questions in the report form on the practical application of the Convention (for example, statistics, results of inspections, judicial or administrative decisions) and on the communication of copies of the report to the representative organizations of employers and workers and on any observations received from these organizations;

- (c) **replies to comments by the supervisory bodies.** The report must contain replies to any comments regarding the application of the Convention in your country which have been addressed to your Government by the Committee of Experts on the Application of Conventions and Recommendations or by the Conference Committee on the Application of Standards.
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Article 22 of the Constitution of the ILO

Report for the period from _____ to _____

made by the Government of _____

on the

WORKERS' REPRESENTATIVES CONVENTION, 1971 (No. 135)

(ratification registered on _____)

I. Please indicate whether effect is given to the Articles of the Convention:

- (a) by customary law or practice (including collective agreements), or
- (b) by legislation.

In the first alternative, please indicate how effect is given to the Articles of the Convention. In the second alternative, please give a list of the constitutional and legislative provisions or administrative or other regulations which give effect to the Articles of the Convention. Where this has not already been done, please forward copies of these various provisions, etc., to the International Labour Office with this report.

Please give any available information concerning the extent to which these laws and regulations have been enacted or modified to permit, or as a result of, ratification.

II. Please supply available information concerning the customary law, practice, legislative provisions, regulations, collective agreements, and any other measures the effect of which is to ensure the application of each of the following Articles of the Convention.

If, in your country, ratification of the Convention gives the force of national law to its provisions please indicate, in addition to the constitutional texts from which this effect is derived, any measures which may have been taken to give effect to those provisions of the Convention which may require the intervention of the national authorities to ensure their application, including measures designed to bring the attention of interested parties to the pertinent provisions.

If the Committee of Experts on the Application of Conventions and Recommendations or the Conference Committee on the Application of Standards has requested additional information or has made an observation on the measures adopted to apply the Convention please supply the information asked for or indicate the action taken by your Government to settle the points in question.

Article 1

Workers' representatives in the undertaking shall enjoy effective protection against any act prejudicial to them, including dismissal, based on their status or activities as a workers' representative or on union membership or participation in union activities, in so far as they act in conformity with existing laws or collective agreements or other jointly agreed arrangements.

Please indicate how, effective protection is ensured to workers' representatives in the undertaking against any act prejudicial to them, and based on any of the motives specified in the present Article.

Article 2

1. Such facilities in the undertaking shall be afforded to workers' representatives as may be appropriate in order to enable them to carry out their functions promptly and efficiently.

2. In this connection account shall be taken of the characteristics of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned.

3. The granting of such facilities shall not impair the efficient operation of the undertaking concerned.

Please indicate what measures have been taken to afford to workers' representatives such facilities as may be appropriate in order to enable them to carry out their functions promptly and efficiently.

Article 3

For the purpose of this Convention the term “workers’ representatives” means persons who are recognised as such under national law or practice, whether they are:

- (a) trade union representatives, namely, representatives designated or elected by trade unions or by the members of such unions; or
- (b) elected representatives, namely, representatives who are freely elected by the workers of the undertaking in accordance with provisions of national laws or regulations or of collective agreements and whose functions do not include activities which are recognised as the exclusive prerogative of trade unions in the country concerned.

Article 4

National laws or regulations, collective agreements, arbitration awards or court decisions may determine the type or types of workers’ representatives which shall be entitled to the protection and facilities provided for in this Convention.

Please indicate any measures which may have been taken to determine the type or types of workers’ representatives entitled to the protection and facilities provided for in this Convention, specifying, as appropriate, the methods used in this regard.

Article 5

Where there exist in the same undertaking both trade union representatives and elected representatives, appropriate measures shall be taken, wherever necessary, to ensure that the existence of elected representatives is not used to undermine the position of the trade unions concerned or their representatives and to encourage co-operation on all relevant matters between the elected representatives and the trade unions concerned and their representatives.

Please indicate any measures which may have been considered necessary to give effect to this Article.

Article 6

Effect may be given to this Convention through national laws or regulations or collective agreements, or in any other manner consistent with national practice.

III. Please state whether courts of law or other tribunals have given decisions involving questions of principle relating to the application of the Convention. If so, please supply the text of these decisions.

IV. Please supply any general observations which may be considered useful with regard to the manner in which the Convention is applied.

V. Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organisation.¹ If copies of the report have not been communicated to representative organizations of employers and/or workers, or if they have been communicated to bodies other than such organizations, please supply information on any particular circumstances existing in your country which explain the procedure followed.

Please indicate whether you have received from the organizations of employers or workers concerned any observations, either of a general kind or in connection with the present or the previous report, regarding the practical application of the provisions of the Convention or the application of the legislation or other measures implementing the Convention. If so, please communicate a copy of the observations received, together with any comments that you consider useful.

¹ Article 23, paragraph 2, of the Constitution reads as follows: “Each Member shall communicate to the representative organisations recognised for the purpose of article 3 copies of the information and reports communicated to the Director-General in pursuance of articles 19 and 22.”

APPENDIX

WORKERS' REPRESENTATIVES RECOMMENDATION, 1971 (No. 143)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-sixth Session on 2 June 1971, and

Having adopted the Workers' Representatives Convention, 1971, and

Having decided upon the adoption of certain proposals with regard to protection and facilities afforded to workers' representatives in the undertaking, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation,

adopts this twenty-third day of June of the year one thousand nine hundred and seventy-one the following Recommendation, which may be cited as the Workers' Representatives Recommendation, 1971:

I. METHODS OF IMPLEMENTATION

1. Effect may be given to this Recommendation through national laws or regulations or collective agreements, or in any other manner consistent with national practice.

II. GENERAL PROVISIONS

2. For the purpose of this Recommendation the term "workers' representatives" means persons who are recognised as such under national law or practice, whether they are:

- (a) trade union representatives, namely representatives designated or elected by trade unions or by the members of such unions; or
- (b) elected representatives, namely representatives who are freely elected by the workers of the undertaking in accordance with provisions of national laws or regulations or of collective agreements and whose functions do not include activities which are recognised as the exclusive prerogative of trade unions in the country concerned.

3. National laws or regulations, collective agreements, arbitration awards or court decisions may determine the type or types of workers' representatives which should be entitled to the protection and facilities provided for in this Recommendation.

4. Where there exist in the same undertaking both trade union representatives and elected representatives, appropriate measures should be taken, wherever necessary, to ensure that the existence of elected representatives is not used to undermine the position of the trade unions concerned or their representatives and to encourage co-operation on all relevant matters between the elected representatives and the trade unions concerned and their representatives.

III. PROTECTION OF WORKERS' REPRESENTATIVES

5. Workers' representatives in the undertaking should enjoy effective protection against any act prejudicial to them, including dismissal, based on their status or activities as a workers' representative or on union membership or participation in union activities, in so far as they act in conformity with existing laws or collective agreements or other jointly agreed arrangements.

6. (1) Where there are not sufficient relevant protective measures applicable to workers in general, specific measures should be taken to ensure effective protection of workers' representatives.

(2) These might include such measures as the following:

- (a) detailed and precise definition of the reasons justifying termination of employment of workers' representatives;
- (b) a requirement of consultation with, an advisory opinion from, or agreement of an independent body, public or private, or a joint body, before the dismissal of a workers' representative becomes final;
- (c) a special recourse procedure open to workers' representatives who consider that their employment has been unjustifiably terminated, or that they have been subjected to an unfavourable change in their conditions of employment or to unfair treatment;
- (d) in respect of the unjustified termination of employment of workers' representatives, provision for an effective remedy which, unless this is contrary to basic principles of the law of the country concerned, should include the reinstatement of such representatives in their job, with payment of unpaid wages and with maintenance of their acquired rights;
- (e) provision for laying upon the employer, in the case of any alleged discriminatory dismissal or unfavourable change in the conditions of employment of a workers' representative, the burden of proving that such action was justified;
- (f) recognition of a priority to be given to workers' representatives with regard to their retention in employment in case of reduction of the workforce.

7. (1) Protection afforded under Paragraph 5 of this Recommendation should also apply to workers who are candidates, or have been nominated as candidates through such appropriate procedures as may exist, for election or appointment as workers' representatives.

(2) The same protection might also be afforded to workers who have ceased to be workers' representatives.

(3) The period during which such protection is enjoyed by the persons referred to in this Paragraph may be determined by the methods of implementation referred to in Paragraph 1 of this Recommendation.

8. (1) Persons who, upon termination of their mandate as workers' representatives in the undertaking in which they have been employed, resume work in that undertaking should retain, or have restored, all their rights, including those related to the nature of their job, to wages and to seniority.

(2) The questions whether, and to what extent, the provisions of subparagraph (1) of this Paragraph should apply to workers' representatives who have exercised their functions mainly outside the undertaking concerned should be left to national laws or regulations, collective agreements, arbitration awards or court decisions.

IV. FACILITIES TO BE AFFORDED TO WORKERS' REPRESENTATIVES

9. (1) Such facilities in the undertaking should be afforded to workers' representatives as may be appropriate in order to enable them to carry out their functions promptly and efficiently.

(2) In this connection account should be taken of the characteristics of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned.

(3) The granting of such facilities should not impair the efficient operation of the undertaking concerned.

10. (1) Workers' representatives in the undertaking should be afforded the necessary time off from work, without loss of pay or social and fringe benefits, for carrying out their representation functions in the undertaking.

(2) In the absence of appropriate provisions, a workers' representative may be required to obtain permission from his immediate supervisor or another appropriate representative of management designated for this purpose before he takes time off from work, such permission not to be unreasonably withheld.

(3) Reasonable limits may be set on the amount of time off which is granted to workers' representatives under subparagraph (1) of this Paragraph.

11. (1) In order to enable them to carry out their functions effectively, workers' representatives should be afforded the necessary time off for attending trade union meetings, training courses, seminars, congresses and conferences.

(2) Time off afforded under subparagraph (1) of this Paragraph should be afforded without loss of pay or social and fringe benefits, it being understood that the question of who should bear the resulting costs may be determined by the methods of implementation referred to in Paragraph 1 of this Recommendation.

12. Workers' representatives in the undertaking should be granted access to all workplaces in the undertaking, where such access is necessary to enable them to carry out their representation functions.

13. Workers' representatives should be granted without undue delay access to the management of the undertaking and to management representatives empowered to take decisions, as may be necessary for the proper exercise of their functions.

14. In the absence of other arrangements for the collection of trade union dues, workers' representatives authorised to do so by the trade union should be permitted to collect such dues regularly on the premises of the undertaking.

15. (1) Workers' representatives acting on behalf of a trade union should be authorised to post trade union notices on the premises of the undertaking in a place or places agreed on with the management and to which the workers have easy access.

(2) The management should permit workers' representatives acting on behalf of a trade union to distribute news sheets, pamphlets, publications and other documents of the union among the workers of the undertaking.

(3) The union notices and documents referred to in this Paragraph should relate to normal trade union activities and their posting and distribution should not prejudice the orderly operation and tidiness of the undertaking.

(4) Workers' representatives who are elected representatives in the meaning of clause (b) of Paragraph 2 of this Recommendation should be given similar facilities consistent with their functions.

16. The management should make available to workers' representatives, under the conditions and to the extent which may be determined by the methods of implementation referred to in Paragraph 1 of this Recommendation, such material facilities and information as may be necessary for the exercise of their functions.

17. (1) Trade union representatives who are not employed in the undertaking but whose trade union has members employed therein should be granted access to the undertaking.

(2) The determination of the conditions for such access should be left to the methods of implementation referred to in Paragraphs 1 and 3 of this Recommendation.

