

Committee on the Application of Standards

Date: 17 May 2024

Governments appearing on the preliminary list of individual cases have the opportunity, if they so wish, to supply on a purely voluntary basis, written information before 20 May 2024.

► Information on the application of ratified Conventions supplied by governments on the preliminary list of individual cases

Republic of Korea (ratification: 1999)

Minimum Age Convention, 1973 (No. 138)

The Government has provided the following written information.

Since the ratification of the Convention, the Government has faithfully implemented it by enhancing domestic laws and systems. This Convention establishes that the minimum age of employment shall be over 15 years and the minimum age for employment or work which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of young persons, shall not be less than 18 years. In alignment with the Convention, the Republic of Korea, in principle, prohibits employing persons under 15 and prohibits employing individuals under 18, including participants of the “on-the-job training” (OJT) programme and the “work-study combination” (WSC) programme, in dangerous work such as work under high pressure and underground work. The OJT and WSC programmes aim to equip youth in secondary education with essential job skills, offering them work appropriate to their age and education level in safe and healthy work environments in order to facilitate their successful transition into the labour market. In addition to the tight protection already provided for the participants of the programmes, the Government announced “Additional Improvement Measures on On-the-Job Training Program at Vocational High Schools,” including detailed tasks¹ in December 2021. In a nutshell, the improvement measures focus on enhancing legal protection for on-the-job trainees, bolstering education and training, including occupational safety-related education, and intensifying penalties for violations.

¹ Gist of the detailed tasks: on-site inspection of all candidate companies that want to provide on-the-job training; labour guidance and inspection in workplaces with weak labour management; improvement in legislation for enhanced safety of on-the-job trainees; strengthened education on OSH and labour and human rights; increase in the number and expansion of the roles of certified labour attorneys specialized for on-the-job training programmes; and bolstering promotion for unfair treatment report centres and provision of support for the protection of rights and interests, and so on.

In Korea, it is institutionally prohibited to assign dangerous and harmful work to those under 18. The capabilities of companies to comply with Occupational Safety and Health (OSH) standards are rigorously assessed when selecting participating companies for OJT and WSC programmes. Regarding legal protection for those under the age of 18, existing domestic laws prohibit dangerous and harmful work for OJT and WSC trainees. WSC trainees have entered into a work-study agreement with the participating company before the training, receiving protection under the Labor Standards Act and the OSH Act. OJT trainees also have been protected under regulations that prohibit the employment of individuals under the age of 18 in any work that is dangerous or detrimental to their morality and health. Since March 2020, OJT trainees have been afforded protection under key provisions of the OSH Act, including safety and health measures, protection measures for customer service workers, and the right to suspend work in case of an imminent danger, thereby ensuring safe work environments. Furthermore, as of October 2023, amendments to the Vocational Education and Training Promotion Act have further extended protections under the Labor Standards Act, such as the prohibition of forced labour and violence and the prohibition of workplace harassment. In sum, employing individuals under the age of 18 in roles considered dangerous or detrimental to their morality and health is prohibited, with comprehensive protections provided under both the OSH Act and the Labor Standards Act, such as safety and health measures and prohibitions on workplace harassment. In addition to system improvements, on-site inspections have been extended to all candidate companies that want to provide on-the-job training to prevent incidents like the one in October 2021 and ensure compliance with the law. Previously, only some leading companies underwent on-site inspections conducted by certified labour attorneys. Now, this requirement has been broadened to include all companies seeking to provide on-the-job training. Also, companies are selected based on strict criteria that assess their ability to deliver training and education, protect the rights of trainees, and maintain safety and health standards. The goal is to ensure that these companies can offer safe and robust training environments for OJT trainees. To qualify for participation in the WSC programme, companies must adhere to labour relations laws, have a certain number of permanent employees and have corporate on-site trainers with at least three years of experience who have completed the relevant training. Additionally, an on-site examination team, comprising experts in the training field and human resource development specialists, conducts an on-site examination to select the final participating companies.

The Government is intensifying its guidance and inspection of companies that provide OJT and WSC programmes, ensuring that participants receive training in safe environments while expanding channels for them to advocate their rights and interests. The Government is strengthening guidance and inspection on companies that provide on-the-job training so that OJT trainees can enhance their job skills in safe and healthy environments ² and successfully enter the labour market. Since 2022, the Ministry of Employment and Labor (MOEL) has conducted annual safety and health inspections at companies which participate in OJT programmes. Additionally, the Ministry of Education, city and province-level education offices, and schools provide guidance and inspect operational aspects related to OSH at these companies. ³ For OJT trainees, various factors are evaluated, such as whether their training

² As of 2023, 16,532 OJT trainees participated in training at 7,391 companies. By industry: electrical and electronics (18.8 per cent), machinery (15.4 per cent), management, accounting and administrative (15.0 per cent), food services (11.8 per cent), accommodation and leisure (7.4 per cent). The construction and chemical industries, claimed to have higher occupational hazards by the labour inspection, represent 4 per cent and 1.8 per cent of OJT trainees respectively.

³ Companies participating in OJT programmes: 139 companies inspected in 2022; 160 companies in 2023. Inspection by Ministry of Education: 50,576 cases in 2020; 64,699 in 2021; 35,797 in 2022; 34,183 in 2023.

conditions, such as hours of work and holidays, are adequate, whether the programme meets the purpose of training and whether the safety and health measures are sufficient. Interviews conducted by certified labour attorneys in 2022 revealed that 95.47 per cent (6,920 out of 7,248 individuals) found their on-the-job training beneficial for skills enhancement, and 97.52 per cent (7,068 individuals) reported having received adequate explanations about training equipment and materials from the companies. Starting in 2023, certified labour attorneys have been visiting companies to provide coaching. Additionally, anonymous reporting centres and youth rights and interest centres have been established, empowering trainees to voice their concerns themselves, while also operating unfair treatment reporting centres for the trainees.⁴ In March 2024, an AI-based monitoring system was introduced to analyse the training logbook of trainees around the clock. This system aims to safeguard those who may not be fully aware of their rights by identifying potential risks and notifying schools when such risks are detected, thus protecting the rights and interests of on-the-job trainees. For WSC programmes, to protect the rights and interests of trainees, 74 associations of schools participating in the WSC programme at the high school level are obliged to organize an “Occupational Safety and Labor Response Team” including labour attorneys and OSH specialists as a means to prevent industrial accidents and sexual harassment at work. Also, surveys assessing workplace risk factors and inadequate training for trainees are conducted twice a year. Companies identified with potential risks receive visits from a “Diagnosis and Consulting Team,” which includes professionals from the Korea Occupational Safety and Health Agency, labour attorneys and OSH specialists.⁵ As a result of these initiatives, the items related to OSH and labour standards received the highest scores in a recent survey on satisfaction of the apprenticeship training programme provided to WSC trainees, scoring 4.3 out of 5 (Korea Research Institute for Professional Education and Training, “Performance Analysis of Industry-Academia Integrated Apprenticeship Schools”). This contrasts with the results from a 2019 survey of participants in the WSC programme in a specific region (Jeollanam-do province), which the labour inspection has previously cited as problematic.

Companies that employ individuals under 18 in dangerous and harmful work in violation of the law are subject not only to stringent penalties but also to revocation of their status as designated training providers. When an employer hires persons under 18 in dangerous or harmful work, thereby violating Article 65 of the Labor Standards Act, the employer can be subject to imprisonment for not more than three years or a fine not exceeding 30 million won (approximately US\$22,000) under the same Act. Also, if business owners fail to implement necessary OSH measures for on-the-job trainees, they may face administrative fines, as well as warnings, guidance and revocation of their status under the Vocational Education and Training Promotion Act. They also can be punished by imprisonment with labour not exceeding seven years or fines not exceeding 100 million won (approximately US\$73,000) under the OSH Act. In a specific case, following the death of an on-the-job trainee in October 2021, criminal proceedings were initiated against the business owner. In the first trial, the owner was sentenced to five years in prison. In the second trial, the sentence was reduced to three years with a four-year probation, taking into account the agreement with the bereaved family. Additionally, in 2022, the MOEL conducted safety and health inspections of 139 companies, which led to issuing corrective orders against 58 companies, imposing administrative fines on 72 companies and pursuing judicial action against 18 companies. In 2023, inspections against

⁴ Counselling/Rights remedy support cases respectively: 18,678/582 in 2021; 19,028/610 in 2022; 37,733/1,105 in 2023.

⁵ Based on survey results of 16,478 trainees in 2023, 491 companies were detected as showing symptoms of poor performance and 744 trainees were provided with in-depth interviews for identifying any rights infringements.

160 companies resulted in 122 corrective orders and administrative fines against one company. Meanwhile, Article 14 of the Act on Work-Study Combination at Industrial Sites outlines specific grounds for revoking the designation of participating companies, including violations of the Labor Standards Act, such as delinquent wage payments and the occurrence of industrial accidents. From October 2021 to April 2022, the Government inspected 15,214 companies that still held active designation. These inspections resulted in the revocation of designations for 5 companies, the return of designations for 45 companies (resigning from participation) and the termination of designations for 9 companies (closure of business). Moving forward, the Government plans to conduct annual examinations of designated companies to identify any violations that may lead to revocation from 2024 and to take the necessary measures. In this manner, the concerns raised by the Committee of Experts are based on exaggerated claims that the Government is allowing the employment of individuals under 18 in dangerous work, and that trainees in OJT and WSC programmes are not receiving proper vocational and safety and health training. Since the incident in 2021, the Government has been effectively prohibiting the employment of those under 18 in dangerous or harmful work. Furthermore, the Government has implemented a range of initiatives to provide necessary training for young people in safe and healthy environments, thereby facilitating their entry into the labour market. These initiatives include enhanced guidance and inspections by administrative authorities and the establishment of reporting channels for trainees. Additionally, if any violations are identified, even amidst such management and oversight, the Government is committed to mobilize all possible means to administer stringent administrative and judicial punishments to the offenders.

The Government maintains that it is not appropriate for the case of the implementation of the Convention to be brought before the Conference Committee. We sincerely hope that both the workers and employers will carefully consider the comments and facts presented by the Government when selecting the final cases to be brought before the 112th Conference.