

Committee on the Application of Standards

Date: 3 June 2024

Governments appearing on the list of individual cases have the opportunity, if they so wish, to supply written information to the Committee.

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

Ecuador (ratification: 1967)

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

The Government has provided the following written information on 18 May 2024.

Ecuador ratified the Convention on 13 March 1967 and on this basis focuses on the following main aspects:

- Freedom of association: Workers and employers have the right to draw up their constitutions, elect their representatives, organize their administration and activities, and formulate their programmes.
- Protection of the right to organize: The Convention lays down principles to protect the right of workers to establish trade unions and participate in union activities without undue interference. On this basis, freedom of association in Ecuador is a subject of great relevance in the context of national labour legislation and policy. These include the right to organize, which is protected by international conventions such as Convention No. 87 and the ILO Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

The Labour Code also regulates the formation of trade unions, their rights and obligations, empowering the Ministry of Labour to register and activate these organizations.

In order to have clear internal standards which allow the free exercise of rights without any interference from the State, the Ministry of Labour issued Ministerial Decision MDT-2024-012, published in the Official Register on 24 February 2024, issuing the "Regulations on labour organizations with regard to the exercise of the right to trade union freedom and autonomy".

The Government has provided the following supplementary written information on 3 June 2024.

Article 154(1) of the Constitution of the Republic of Ecuador (National Constitution) provides that the duties of the Ministry of Labour are to direct public policies in its area of responsibility and to issue administrative decisions as required within its managerial function.

Consequently, the “Regulations on labour organizations” were issued via Ministerial Decision No. 130, regulating the establishment and registration of trade unions and their constitutions, as well as the procedures for the reform of constitutions and the registration of the union executive committee in accordance with the provisions of the Labour Code. However, this legal instrument lacked provisions relating to second- and third-level organizations, and contained regulatory standards which were not consistent with the Labour Code. Hence it was essential to create machinery for the recognition and implementation of the rights granted to labour organizations.

This state ministry, on the basis of the commitments entered into by Ecuador which feature in international treaties and conventions, as well as recommendations of the ILO supervisory bodies and their main elements, in order to put the country in a position to honour its international commitments and comply with international standards relating to labour, trade union and universal social security rights, has even considered requests from trade unions.

Article 326(7) and (8) of the Ecuadorian Constitution establish the right to freedom of association, which must be complied with, especially as the international instruments which recognize it do not limit the right to freedom of assembly or association under any circumstances. Consequently, this state ministry, in observance of the National Constitution and Convention No. 87 ratified by Ecuador, which establishes the right to freedom of association and protection of the right to organize, issued Ministerial Decision No. MDT-2024-012 issuing the “Regulations on labour organizations with regard to the exercise of the right to trade union freedom and autonomy”. These Regulations incorporate requirements, guidelines, procedures and actions aimed at ensuring trade unions’ right to freedom of association and simplifying formalities so as to issue a timely response to users in accordance with the Labour Code.

On 9 May 2024, Executive Decree 255 (“Regulations on occupational safety and health (OSH)”) was published in the Official Register. The main objective of these Regulations is to promote a culture of prevention and protection with regard to OSH and strengthen its regulatory framework, through the implementation of public policies and actions enabling the reinforcement of OSH. These Regulations are applicable throughout the country and are binding on all public and private officials, employers and workers, including the armed forces and civic safety and public order entities, as well as paid homeworkers who are autonomous and not in a dependent employment relationship.

Accordingly, Ecuador has a regulatory framework which promotes the fundamental rights, health, safety and well-being of workers.

Lastly, the Government, through the Ministry of Labour, in accordance with the principle of good public administration, remains firm in meeting its obligations and handling requests from trade unions in a timely manner, providing its services in strict adherence to the principles of efficacy, efficiency, quality, hierarchy, devolution, decentralization, coordination, participation, planning, transparency and evaluation, in accordance with the requirements and procedures applicable to each case. Hence, on the basis of the provisions of article 326(7) and (8) of the National Constitution, and Article 3(1) and (2) of ILO Convention No. 87, trade union executive committees are registered, with respect for their freedom of association and their right to organize. This enables them to carry out the activities inherent to their institutional life

in full autonomy, safeguarding legal certainty through the corresponding legal analysis, which includes verification of the basic requirements, and also through section 449 of the Labour Code and the legal authority of whoever convenes, legitimizes and certifies the election process.