

Module 2

Legal Framework for Labour Administration

What this Module is about

This module focuses on Convention No.150 and Recommendation No.158.

After mentioning the set of Conventions which constitutes the normative background for C150, it describes the historical origin of this instrument.

The above-mentioned Convention and its Recommendation are illustrated and commented, article by article, giving examples that help in understanding the importance of these instruments as practical tools for strengthening and re-engineering labour administration.

Objectives

At the end of this module, participants will be able to:

- Realize the importance of ILO International Labour Standards as instruments for dealing with Labour Administration and Good Governance
- Identify key ILO Conventions related to Labour Administration and Good Governance
- Describe key elements of ILO Convention No.150 and Recommendation No. 158, in relation with key roles and functions of Labour administration
- Make reference to both instruments for strengthening and re-engineering Labour Administration for facing concrete problems and issues in their country

Pre-requisites

In order to be able to use this module and actively participate in discussions and exercise, participants should read, as preparatory work, the full text of the following international labour standards:

- Convention No. 150 and Recommendation No.158 on Labour Administration
- Convention No. 87 on Freedom of Association and Protection of the Right to Organise
- Convention No. 98 on the Right to Organise and Collective Bargaining
- Convention No 144 on Tripartite Consultation (International Labour Standards)

(full copy of the above conventions is available in the Annexes)

Table of Contents

General Framework

Key Elements of ILO Convention No. 150 and Recommendation No. 158 (1978)

Contents of Convention No. 150

Contents of the Recommendation No. 158

Summary**Bibliography****Annexes**

Labour Administration Convention, 1978 (No.150)

Labour Administration Recommendation, 1978 (No.158)

Relevant International Labour Standards

(to be downloaded from the ILO web site: www.ilo.org//lolex)

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

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

Labour Inspection Convention, 1947 (No. 81)

Labour Inspection (Agriculture) Convention, 1969 (No.129)

Employment Service Convention, 1948 (No.88)

Employment Policy Convention, 1964 (No.122)

Paid educational leave Convention, 1974 (No.140)

Human Resources Development Convention, 1975 (No.142)

Tripartite Consultation Convention (International Labour Standards), 1976 (No.144)

Social Security Convention, 1952 (No. 102)

Migration for employment Convention, 1949 (No. 97)

General Framework

When the ILO was established in 1919, the primary focus was to set international labour standards in order to improve the working conditions and social well-being of workers worldwide.

International Labour Standards have grown into a comprehensive system of instruments on work and social policy, backed by a supervisory system designed to address all sorts of problems in their application at the national level. They are the legal component in the ILO's strategy for governing globalization, promoting sustainable development, eradicating poverty, and ensuring that people can work in dignity and safety.

International Labour Standards include International Labour Conventions and Recommendations. Some standards deal with fundamental labour rights: Freedom of Association and Protection of the Right to Organize (C87), the Right to Organize and Collective Bargaining (C098), Abolition of Forced Labour (C029 and C103), Equality of Opportunities and Treatment (C111, C100), The Elimination of Child Labour and especially its worst forms (C138, C182) and other standards which regulate conditions of work, and promote good governance.

Before the development of a specific convention dealing with Labour Administration, a wide set of standards were already adopted, covering different aspects related to labour administration, including rules applicable to labour inspection and employment services.

In particular, reference is made to the following conventions:

- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- Right to Organise and Collective Bargaining Convention, 1949 (No.98)
- Labour Inspection Convention, 1947 (No. 81)
- Labour Inspection (Agriculture) Convention, 1969 (No.129)
- Employment Service Convention, 1948 (No.88)
- Employment Policy Convention, 1964 (No.122)
- Paid educational leave Convention, 1974 (No.140)
- Human Resources Development Convention, 1975 (No.142)
- Tripartite Consultation Convention (International Labour Standards), 1976 (No.144)
- Social Security Convention, 1952 (No. 102)
- Migration for Employment Convention, 1949 (No. 97)

The ILO and the adoption of ILO Convention No. 150 on Labour Administration - Historical Origin

Debates on the need of defining the role of the overall system of labour administration have regularly taken place since the 1950s, culminating in 1978 with the adoption of a Convention on Labour Administration (C150) and a Recommendation (R158).

The Meeting of Experts on Labour Administration in 1973 made key recommendations on the need for a labour administration convention. They argued that the convention would help countries to solve their difficulties in labour administration, give social protection to existing national systems that were weak and fill the gap in the international labour code by taking into account the important role that the system of labour administration could play in development, implementation and control of labour policy¹.

For the ILO, these recommendations were important contribution to the ongoing discussion on the changing role of labour ministries and the need to adopt a labour standard on labour administration. Furthermore, international labour standards are usually applied through national law and policy. It was therefore vital that a convention on labour administration be adopted in order to maintain a viable and active system of labour administration responsible for all aspects of national labour policy formulation and implementation. Besides promoting labour administration systems in a variety of forms, the convention on labour administration would help to promote the collection of labour statistics, which are invaluable in identifying needs and formulating labour policy, at both national and international levels. Labour administrations in most countries around the world, face human, financial and material difficulties. The convention would be able to provide for the financing of labour administration systems in order to maintain and strengthen this important tool for development.

Role of Labour Administration in Promoting Decent Work

Today, the ILO has developed a comprehensive Decent Work Agenda, which takes up many of the same challenges that the organization faced at its inception in 1919. The Decent Work Agenda aims to achieve decent work for all by promoting social dialogue, social protection and employment creation, as well as respect for international labour standards. These are also the cornerstones of the Labour Administration Convention No. 150².

¹ Lecuyer, N., Courdouan, J. (2002), *Actors in Development, New Forms of Labour Administration*, ILO, Geneva.

² ILO (1999), *Decent Work, Report to the Director General 87th Session*, June 1999, Geneva.

Key Elements of ILO Convention No. 150 and Recommendation No. 158 (1978)

ILO Convention No. 150 and Recommendation No. 158 (1978) are the only international instruments providing for the establishment of an institutional framework within which national labour policy is developed, implemented, coordinated, checked and reviewed. Convention No. 150 defines the concept of labour administration and its characteristics, i.e. a coherent national labour policy, a coordinated system of competent bodies, an institutional structure integrating the active participation of workers, employers and their respective organizations, and adequate human, financial and material resources for the provision of effective and efficient services. In the preamble, the convention clearly recognizes that the ILO deals with particular aspects of labour administration in detail in several other instruments such as the labour inspection convention, employment services, and human resources development³.

The Convention Calls for Systemic Approach to Labour Administration

The scope and diversity of social policy regulation and implementation, the complexity and the variety of the subjects that have to be treated, and the number of services to be provided, call for a systemic approach to labour administration. Creating an integrated overall system in which all tripartite partners, i.e. the government, workers and employers may play roles in partnership with each other and in a coordinated manner, is the best way to establish regulatory mechanisms that are dynamic and to guarantee the flexibility of the functioning of labour administration⁴.

The Convention doesn't aim at prescribing a rigid structure; the organization of the system can have different combinations linked to the history of each country, the strength and tradition of negotiations between the social partners, the role of the State and the political conceptions of the Government⁵.

³ ILO (1997), *Labour Administration Report to the ILC 85th Session*, ILO Geneva.

⁴ ILO (2005), *A Brief Introduction to International Labour Standards RULES OF THE GAME*, ILO Geneva.

⁵ Lecuyer, N., Courdouan, J. (2002), *Actors in Development, New Forms of Labour Administration*, ILO, Geneva.

Enhanced Labour Administration Services can improve productivity and economic performance

Services provided for by the labour administration convention are sometimes perceived as costs and thus hindering economic development. A growing body of research indicates, however, that those countries which apply labour standards through good labour administration mechanisms and have strong labour market institutions are often accompanied by improvements in productivity and economic performance⁶.

Higher wages and working time standards and respect for labour standards tend to produce satisfied workers, lower turnover of staff. Investment in vocational training can result in a better-trained workforce and higher employment levels. Safety standards can reduce costly accidents and health care fees.

Employment protection can encourage workers to take risks and to innovate. Social protection such as unemployment schemes and active labour market policies can facilitate labour market flexibility; they make economic liberalization and privatization sustainable and more acceptable to the public. Freedom of association and collective bargaining can lead to better labour–management consultation and cooperation, thereby reducing the number of costly labour disputes and enhancing social stability against such economic downturns.

Quality of Labour administration services and economic growth in South Korea

- Among the factors responsible for the strong economic growth seen in countries like Singapore and South-Korea are the quality labour administration services provided.
- For the last 40 years, labour administration in Korea has developed into a huge administrative body. The Ministry of Labour has six regional administrations and 40 regional labour offices around the country. It has 118 Employment Security Centres to implement the Employment Insurance System and to carry out active labour market policies. It also runs a Call Center to enhance the accessibility of workers and employers to labour administration. There are four commissions and eight subsidiary bodies under the Ministry of Labour. The field of its activity include labour protection, national employment policy, unemployment insurance and active labour market policy, human resource development, public employment services, occupational safety and health, settlement of labour dispute, and social consultation.

⁶ Kucera, D. (2002), "Core Labour Standards and Foreign Direct Investment", in *International Labour Review*, Vol. 141, No. 1-2, pp. 31-70.

Contents of Convention No. 150

Definition

One of the fundamental elements of Convention No.150 is expressed in Article 1, which, in addition to defining "Labour Administration" has conceptualized the notion of "national system of labour administration". The term "labour administration" refers to public administration activities, in the narrowest sense of the term, in the field of national labour policies. The term "system of labour administration" is defined as covering all public administration bodies, (including parastatal and regional or local agencies or any other form of decentralised administration) and any institutional framework for the coordination of the activities of such bodies and for consultation with and participation by employers and workers and their organizations. This systematic conception enhances the complementarily roles of different actors.⁷

Examples of different bodies in charge of labour administration

For example, the Ministry of Industry may have some responsibility for Special Economic Zones or Free Trade Zones. The Ministry of Education could have responsibility for vocational training. The Ministry of Health may have responsibility for the workers' health. All these are important areas for the wider labour administration system.

Labour administration is meant to cover public administration activities in the field of national labour policy. The convention does not define labour policy. However it is worth pointing out that certain aspects of national labour policy have become increasingly important such as protection of children at work, the promotion of equal opportunity and treatment in employment and the training and upgrading of skills for and in the workplace⁸.

Public administration bodies responsible for and/or engaged in labour administration as well as the entire institutional framework for the coordination of the activities of such bodies and for consultation with and participation by employers and workers and their organizations, are to be considered as part of this system. In other words, the system of labour administration comprises all public administration bodies responsible for or engaged in labour administration.

Article 2 of the Convention provides for the possibility of delegating or entrusting certain activities of the system to non-governmental

⁷ Lecuyer,N., Courdouan,J. (2002), *Actors in Development, New Forms of Labour Administration*, ILO, Geneva.

⁸ ILO (1997), *Labour Administration Report to the ILC 85th Session*, ILO Geneva.

organizations, particularly to employers' and workers' organizations or where appropriate to employers' and workers' representatives. With a view to the proper coordination of the functions and responsibilities of the system, Article 9 requires that a specific governmental body ascertain and monitor the parastatal and semi Government agencies to which some labour administration activities may have been delegated.

Recourse to direct negotiations between employers' and workers' organizations to regulate particular activities in the field of national labour policy is provided for by Article 3 of the Convention. Employers' and Workers' Organizations are vitally concerned with labour Administration but are not part of the system of labour administration.

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Staff Resources

A country which ratifies the Convention is required by Article 4, in a manner appropriate to national conditions, to ensure the organization and effective operation in its territory of a system of labour administration, the functions and responsibilities of which are properly coordinated. In order to do that, Article 10, paragraph 1, requires that the staff of the system of labour administration be suitably qualified for the activities to which they are assigned and that they be independent of improper external influences. Subparagraph 2 of the same Article requires such staff to have the status, the material means and the financial resources necessary for the effective performance of their duties.

Many Labour Ministries have set up training institutes which have, among their objectives, training of labour administration officials.

Proper Coordination

Under the systems approach, it is clear that a wide range of activities are covered. Not all activities come under direct or immediate supervision of the ministry of labour and proper coordination within the system is needed⁹.

Coordination of Labour Administration in Germany

In Germany, the Ministry of Labour and Social Affairs often has to coordinate with other ministries. When developing initiatives in respect of illegally working persons, for example, the Ministry of Labour and Social Affairs coordinates with the Ministry of Finance, which has competency in this area as it concerns people who are not paying taxes. When developing initiatives that affect women, the Ministry of Labour coordinates with the Ministry for Family Affairs, Senior Citizens, Women and Youth and so on. The latter ministry took over responsibility for legislation in respect of working mothers from the Ministry of Labour and Social Affairs in the 1990s¹⁰.

Coordination of Labour Administration in Malaysia

The Ministry of Human Resources Malaysia organises a monthly meeting of all heads of department each month to exchange information and follow up on labour issues. Each week the same heads of departments meet with the Minister of Human Resources after his weekly cabinet meeting to coordinate the implementation on labour matters. The same heads of departments also meet with workers' and employers' representatives each quarter in the meetings of the tripartite National Labour Advisory Council to coordinate labour policy formulation and implementation.

Tripartite Dialogue

Article 5 provides for the principle of tripartism in the context of the system of labour administration by requiring that arrangements be made within the system for consultation, cooperation and negotiation between the public authorities and the most representative organizations of employers and workers, or where appropriate of the employers' and workers' representatives. Such tripartite arrangements should be made at the national, regional and local levels as well as different sectors of economic activity.

⁹ Heron R. (1998), *Labour Administration: an Introduction*, ILO-SRO Bangkok.

¹⁰ Hayes, J. / ILO (2004), *The Changing Role of Labour Ministries*, DIALOGUE, ILO Geneva.

Tripartite Dialogue in Ireland, Namibia and Jordan

In Namibia for example the National Labour Advisory Council set up in 2008 has the following functions: policy formulation, appointment of conciliators/arbitrators; recommendation of good practices.

In Jordan, Social Dialogue has been institutionalized through the creation of a tripartite committee (2007) and the Economic and Social Council (2007).

In the social dialogue process in Ireland, the outcomes of discussions involving the social partners and the State are enshrined in national “partnership agreements”. The first such agreement was reached in 1987 against a backdrop of high unemployment and inflation. The seriousness of the difficulties besetting the Irish economy and the urgent need for solutions were accepted by employers’ bodies and trade unions. The 1987 partnership agreement was essentially an agreement on wages, whereby the unions agreed to moderate wage increases in return for tax concessions. Subsequent partnership agreements, however, have been more far-reaching in their content ¹¹.

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¹¹ O'Donovan, P. (2003), "Social Dialogue –Issues and Trends" in Sivananthiram and Venkata Ratnam (eds.), *Best Practices in Social Dialogue*, ILO New Delhi.

Functions

The overall functions of the labour administration system are included in the terms of Article 6, paragraph 1, in that the functions of the competent bodies within the system are to consist, as appropriate, of responsibility for or contribution to the preparation, administration, coordination, checking and review of national labour policy, including by being the instrument of the public administration for the preparation and implementation of laws and regulations giving effect to such policy.

Without being exhaustive, paragraph 2 of Article 6 of the Convention lists the principal functions that such bodies must cover, taking into account relevant international labour standards. These include participation in the preparation, administration, coordination, checking and review of national employment policy (subparagraph (a)), study and follow-up of the world of work by reviewing the situation of the employed, the unemployed and the underemployed, taking into account national laws, regulations and national practice concerning conditions of work and working life and terms of employment (subparagraph (b)), make their services available to employers and workers and their respective organizations with a view to promoting effective consultation and cooperation between public authorities and employers' and workers' organizations, as well as between such organizations (subparagraph (c)), respond to requests for technical advice from employers and workers and their respective organizations (subparagraph (d)).

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Outreach to Informal Economy

Article 7 of the Convention provides that when national conditions so require to meet the needs of the largest number of workers, and in so far as such activities are not already covered, each Member State which ratifies the Convention shall promote the extension, by gradual stages if necessary, of the functions of the system of labour administration to workers who are not, in law, employed persons. It then lists, as examples, tenants, sharecroppers, self-employed workers in the informal sector, members of cooperatives and worker-managed undertakings, those working under systems established by communal customs or traditions¹².

Thailand: protection of home workers

The Ministry of Labour of Thailand for example has set up a special unit in 2005 to provide policy inputs on the informal economy. Among its achievements is the protection accorded to home workers.

Legislation to facilitate registration, labour inspection and formalization of micro- and small enterprises in Peru

The 2003 Small and Micro Enterprise (Promotion and Formalization) Act, promotes, among other things, the formalization of micro- and small enterprises. It simplifies procedures for the formation of companies and for obtaining municipal licences, and establishes a tax regime for micro and small businesses. The General Labour Inspection and Worker Protection Act amended in 2004, encourages preventive measures including provision of technical information and advice to both workers and employers, guarantees confidentiality of complaints, strengthens labour inspectors' powers and allows them to inspect workers' cooperatives and home work employment agencies. In addition, the 2003 Micro and Small Enterprise (Promotion and Formalization) Act sets a target of 20 per cent of registered micro-enterprises to be inspected each year¹³.

The competent bodies within the labour administration system are required by Article 8 of the Convention to contribute to the preparation of national policy in the field of international labour affairs, participate in the representation of the State with respect to such affairs and contribute to the preparation of measures to be taken at the national level with respect thereto.

¹² Casale, G; Sivananthiran, A.; Venkata Ratnam, C.S., (2006), *Re-engineering Labour Administration to Promote Decent Work*, ILO, Geneva.

¹³ ILO GB.298/ESP/4 298th.

Contents of Recommendation No. 158

The Recommendation takes up and develops the principles contained in the Convention and provides useful guidelines for its application. It is structured in three parts:

- General provisions
- The functions of the national system of labour administration
- The organization of the system

General Provisions

The general provisions of the Recommendation No. 158 essentially recall the first four Articles of the Convention.

The System of Labour Administration

The Recommendation describes the four areas in which the system of labour administration is to exercise its functions, which are: labour standards, labour relations, employment and research in labour matters.

The competent authorities of the system of labour administration, in consultation with organizations of employers and workers, should take an active part at all stages of the preparation, development, adoption, application and review of labour standards. This should also include a system of labour inspection (ILO 1980).

Industrial Relations

With respect to labour relations, the Recommendation is essentially concerned with the need to encourage industrial relations by enumerating the various means by which this objective is to be attained, namely by the free exercise of the right of association, the right to organize and collective bargaining, the provision of advisory services, the development and utilization of machinery for voluntary negotiation, and by the existence of conciliation and mediation facilities within the system of labour administration.

Employment

In the employment area the Recommendation defines the means by which an effective employment policy could be put in place. Among the major means listed to this end are the need to coordinate the activities of the various authorities and bodies which are concerned with particular aspects of employment policy, the establishment of an effective free public employment service, assume power or sharing responsibility for the management of public funds made available for such purposes as countering underemployment and unemployment.

Research

The last major function listed in the Recommendation concerns research in labour matters with a view to the fulfilment of social objectives of the system of labour administration.

Organization of the System of Labour Administration

The third part of the Recommendation deals with the organization of the system of labour administration in which the ministry of labour or another comparable body should ensure the appropriate representation of the system of labour administration in the administrative and consultative bodies in the economic and social domain. This essentially is based in the exchange of information and reports of a technical nature and consultations with the most representative organizations of employers and workers.

Adequate Resources and Suitably Qualified Staff

The Recommendation calls for adequate resources and suitably qualified staff to be provided to the system of labour administration to promote its effectiveness. The provision of initial and further training and the exchange of experience and information in the context of international cooperation should help maintain the level of qualification of the staff of the system.

With respect to the internal structure and organization of the system the Recommendation suggests the types of specialized units that the system should have. The external or field structure should be such as to ensure the effective organization and operation of the system.

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EXERCISE

1. Individually, read carefully the Article 1 of the Convention No.150 on Labour Administration.
2. In group, making reference to your country, produce respectively examples of
 - **“Labour administration”** (namely public administration activities in the field of national labour policy) and of
 - **“Labour administration system”** (mentioning examples of the public administration bodies engaged in labour administration in your country, whether they are ministerial departments or public agencies, including parastatal and regional or local agencies or any other form of decentralised administration).
3. Present the findings of your group work in plenary, with the support of a flip chart or a power point.
4. A general discussion will follow.

EXERCISE

- 1.** Individually, read Art. 10 of the Convention No.150 on Labour Administration and chapters 22 and 23 (concerning Resources and Staff) of the Recommendation No.158 on Labour Administration.
- 2.** Reflect about the situation of the human resources and staff of the labour administration in your country and list what are, on your opinion the major gaps between the key competencies they should have for a good quality standard of performance and the present competences they have.
- 3.** List the three more needed competences they need to develop or strengthen, mentioning the present functions-profiles of the staff you are referring to.

PROFILE	KEY COMPETENCE TO BE DEVELOPED/ STRENGTHENED

- 4.** Discuss your findings in your group.

Summary

Debates on the need of defining the role of the overall system of labour administration have regularly taken place at the ILO since the 1950s, culminating in 1978 with the adoption of a Convention on Labour Administration (C150) and a Recommendation (R158).

ILO Convention No. 150 and Recommendation No. 158 (1978) are the only international instruments providing for the establishment of an institutional framework within which national labour policy is developed, implemented, coordinated, checked and reviewed.

The convention makes a difference between two concepts: "Labour Administration" and "Labour Administration System".

The term "labour administration" refers to public administration activities, in the narrowest sense of the term, in the field of national labour policies. The term "system of labour administration" is defined as covering all public administration bodies - including parastatal and regional or local agencies or any other form of decentralised administration - and any institutional framework for the coordination of the activities of such bodies and for consultation with and participation by employers and workers and their organizations. This systematic conception enhances the complementarily roles of different actors.

Convention No. 150 defines the main ingredients for an efficient Labour Administration System: a coherent national labour policy, a coordinated system of competent bodies, an institutional structure integrating the active participation of workers, employers and their respective organizations, and adequate human, financial and material resources for the provision of effective and efficient services.

The Recommendation No. 158 on Labour Administration takes up and develops the principles contained in the Convention and provides useful guidelines for its application. It is structured in three parts:

- general provisions;
- the functions of the national system of labour administration;
- the organization of the system.

The general provisions of the Recommendation No. 158 essentially recall the first four Articles of the Convention and describes the four areas in which the system of labour administration is to exercise its functions: labour standards, labour relations, employment and research in labour matters.

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Annexes

- Convention No.150 on Labour Administration
- Recommendation No.158 on Labour Administration

C150 Labour Administration Convention, 1978*Convention concerning Labour Administration: Role, Functions and Organisation*

Date of adoption: 26:06:1978

Date of coming into force: 11:10:1980

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 Sixty-fourth Session on 7 June 1978, and

Recalling the terms of existing international labour Conventions and Recommendations, including in particular the Labour Inspection Convention, 1947, the Labour Inspection (Agriculture) Convention, 1969, and the Employment Service Convention, 1948, which call for the exercise of particular labour administration activities, and

Considering it desirable to adopt instruments establishing guidelines regarding the over-all system of labour administration, and

Recalling the terms of the Employment Policy Convention, 1964, and of the Human Resources Development Convention, 1975; recalling also the goal of the creation of full and adequately remunerated employment and affirming the need for programmes of labour administration to work towards this goal and to give effect to the objectives of the said Conventions, and

Recognizing the necessity of fully respecting the autonomy of employers' and workers' organisations, recalling in this connection the terms of existing international labour Conventions and Recommendations guaranteeing rights of association, organisation and collective bargaining--and particularly the Freedom of Association and Protection of the Right to Organise Convention, 1948, and the Right to Organise and Collective Bargaining Convention, 1949--which forbid any interference by public authorities which would restrict these rights or impede the lawful exercise thereof, and considering that employers' and workers' organisations have essential roles in attaining the objectives of economic, social and cultural progress, and

Having decided upon the adoption of certain proposals with regard to labour administration: role, functions and organisation, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-sixth day of June of the year one thousand nine hundred and seventy-eight the following Convention, which may be cited as the Labour Administration Convention, 1978:

Article 1

For the purpose of this Convention--

(a) the term labour administration means public administration activities in the field of national labour policy;

(b) the term system of labour administration covers all public administration bodies responsible for and/or engaged in labour administration--whether they are ministerial departments or public agencies, including parastatal and regional or local agencies or any other form of decentralized administration --and any institutional framework for the co-ordination of the activities of such bodies and for consultation with and participation by employers and workers and their organisations.

Article 2

A Member which ratifies this Convention may, in accordance with national laws or regulations, or national practice, delegate or entrust certain activities of labour administration to non-governmental organisations, particularly employers' and workers' organisations, or--where appropriate--to employers' and workers' representatives.

Article 3

A Member which ratifies this Convention may regard particular activities in the field of its national labour policy as being matters which, in accordance with national laws or regulations, or national practice, are regulated by having recourse to direct negotiations between employers' and workers' organisations.

Article 4

Each Member which ratifies this Convention shall, in a manner appropriate to national conditions, ensure the organisation and effective operation in its territory of a system of labour administration, the functions and responsibilities of which are properly co-ordinated.

Article 5

1. Each Member which ratifies this Convention shall make arrangements appropriate to national conditions to secure, within the system of labour administration, consultation, co-operation and negotiation between the public authorities and the most representative organisations of employers and workers, or--where appropriate--employers' and workers' representatives.

2. To the extent compatible with national laws and regulations, and national practice, such arrangements shall be made at the national, regional and local levels as well as at the level of the different sectors of economic activity.

Article 6

1. The competent bodies within the system of labour administration shall, as appropriate, be responsible for or contribute to the preparation, administration, co-ordination, checking and review of national labour policy, and be the instrument within the ambit of public administration for the preparation and implementation of laws and regulations giving effect thereto.

2. In particular, these bodies, taking into account international labour standards, shall--

(a) participate in the preparation, administration, co-ordination, checking and review of national employment policy, in accordance with national laws and regulations, and national practice;

(b) study and keep under review the situation of employed, unemployed and underemployed persons, taking into account national laws and regulations and national practice concerning conditions of work and working life and terms of employment, draw attention to defects and abuses in such conditions and terms and submit proposals on means to overcome them;

(c) make their services available to employers and workers, and their respective organisations, as may be appropriate under national laws or regulations, or national practice, with a view to the promotion--at national, regional and local levels as well as at the level of the different sectors of economic activity --of effective consultation and co-operation between public authorities and bodies and employers' and workers' organisations, as well as between such organisations;

(d) make technical advice available to employers and workers and their respective organisations on their request.

Article 7

When national conditions so require, with a view to meeting the needs of the largest possible number of workers, and in so far as such activities are not already covered, each Member which ratifies this Convention shall promote the extension, by gradual stages if necessary, of the functions of the system of labour administration to include activities, to be carried out in co-operation with other competent bodies, relating to the conditions of work and working life of appropriate categories of workers who are not, in law, employed persons, such as--

(a) tenants who do not engage outside help, sharecroppers and similar categories of agricultural workers;

(b) self-employed workers who do not engage outside help, occupied in the informal sector as understood in national practice;

(c) members of co-operatives and worker-managed undertakings;

(d) persons working under systems established by communal customs or traditions.

Article 8

To the extent compatible with national laws and regulations and national practice, the competent bodies within the system of labour administration shall contribute to the preparation of national policy concerning international labour affairs, participate in the representation of the State with respect to such affairs and contribute to the preparation of measures to be taken at the national level with respect thereto.

Article 9

With a view to the proper co-ordination of the functions and responsibilities of the system of labour administration, in a manner determined by national laws or

regulations, or national practice, a ministry of labour or another comparable body shall have the means to ascertain whether any parastatal agencies which may be responsible for particular labour administration activities, and any regional or local agencies to which particular labour administration activities may have been delegated, are operating in accordance with national laws and regulations and are adhering to the objectives assigned to them.

Article 10

1. The staff of the labour administration system shall be composed of persons who are suitably qualified for the activities to which they are assigned, who have access to training necessary for such activities and who are independent of improper external influences.

2. Such staff shall have the status, the material means and the financial resources necessary for the effective performance of their duties.

Article 11

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 12

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 13

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 14

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 15

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 16

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 17

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 13 above, if and when the new revising Convention shall have come into force;

b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 18

The English and French versions of the text of this Convention are equally authoritative.

Cross references

Conventions: C81 Labour Inspection, 1947

Conventions: C129 Labour Inspection (Agriculture), 1969

Conventions: C88 Employment Service, 1948

Conventions: C122 Employment Policy, 1964

Conventions: C142 Human Resources Development, 1975

Conventions: C87 Freedom of Association and Protection of the Right to Organise, 1948

Conventions: C098 Right to Organise and Collective Bargaining, 1949

R158 Labour Administration Recommendation, 1978

Recommendation concerning Labour Administration: Role, Functions and Organisation

Date of adoption: 26:06:1978

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 Sixty-fourth Session on 7 June 1978, and

Recalling the terms of existing international labour Conventions and Recommendations, including in particular the Labour Inspection Convention, 1947, the Labour Inspection (Agriculture) Convention, 1969, and the Employment Service Convention, 1948, which call for the exercise of particular labour administration activities, and

Considering it desirable to adopt instruments establishing guidelines regarding the over-all system of labour administration, and

Recalling the terms of the Employment Policy Convention, 1964, and of the Human Resources Development Convention, 1975; recalling also the goal of the creation of full and adequately remunerated employment and affirming the need for programmes of labour administration to work towards this goal and to give effect to the objectives of the said Conventions, and

Recognising the necessity of fully respecting the autonomy of employers' and workers' organisations, recalling in this connection the terms of existing international labour Conventions and Recommendations guaranteeing rights of association, organisation and collective bargaining--and particularly the Freedom of Association and Protection of the Right to Organise Convention, 1948, and the Right to Organise and Collective Bargaining Convention, 1949--which forbid any interference by public authorities which would restrict these rights or impede the lawful exercise thereof, and considering that employers' and workers' organisations have essential roles in attaining the objectives of economic, social and cultural progress, and

Having decided upon the adoption of certain proposals with regard to labour administration: role, functions and organisation, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Labour Administration Convention, 1978,

adopts this twenty-sixth day of June of the year one thousand nine hundred and seventy-eight, the following Recommendation, which may be cited as the Labour Administration Recommendation, 1978:

I. General Provisions

1. For the purpose of this Recommendation--

(a) the term labour administration means public administration activities in the field of national labour policy;

(b) the term system of labour administration covers all public administration bodies responsible for and/or engaged in labour administration--whether they are ministerial departments or public agencies, including parastatal and regional or local agencies or any other form of decentralised administration --and any institutional framework for the co-ordination of the activities of such bodies and for consultation with and participation by employers and workers and their organisations.

2. A Member may, in accordance with national laws or regulations, or national practice, delegate or entrust certain activities of labour administration to non-governmental organisations, particularly employers' and workers' organisations, or--where appropriate--to employers' and workers' representatives.

3. A Member may regard particular activities in the field of its national labour policy as being matters which in accordance with national laws or regulations, or national practice, are regulated by having recourse to direct negotiations between employers' and workers' organisations.

4. Each Member should, in a manner appropriate to national conditions, ensure the organisation and effective operation in its territory of a system of labour administration, the functions and responsibilities of which are properly co-ordinated.

II. Functions of the National System of Labour Administration

Labour Standards

5.

(1) The competent bodies within the system of labour administration should--in consultation with organisations of employers and workers and in a manner and under conditions determined by national laws or regulations, or national practice--take an active part in the preparation, development, adoption, application and review of labour standards, including relevant laws and regulations.

(2) They should make their services available to employers' and workers' organisations, as may be appropriate under national laws or regulations, or national practice, with a view to promoting the regulation of terms and conditions of employment by means of collective bargaining.

6. The system of labour administration should include a system of labour inspection.

Labour Relations

7. The competent bodies within the system of labour administration should participate in the determination and application of such measures as may be necessary to ensure the free exercise of employers' and workers' right of association.

8.

(1) There should be labour administration programmes aimed at the promotion, establishment and pursuit of labour relations which encourage progressively better

conditions of work and working life and which respect the right to organise and bargain collectively.

(2) The competent bodies within the system of labour administration should assist in the improvement of labour relations by providing or strengthening advisory services to undertakings, employers' organisations and workers' organisations requesting such services, in accordance with programmes established on the basis of consultation with such organisations.

9. The competent bodies within the system of labour administration should promote the full development and utilisation of machinery for voluntary negotiation.

10. The competent bodies within the system of labour administration should be in a position to provide, in agreement with the employers' and workers' organisations concerned, conciliation and mediation facilities, appropriate to national conditions, in case of collective disputes.

Employment

11.

(1) The competent bodies within the system of labour administration should be responsible for or participate in the preparation, administration, co-ordination, checking and review of national employment policy.

(2) A central body of the system of labour administration, to be determined in accordance with national laws or regulations, or national practice, should be closely associated with, or responsible for taking, appropriate institutional measures to co-ordinate the activities of the various authorities and bodies which are concerned with particular aspects of employment policy.

12. The competent bodies within the system of labour administration should co-ordinate, or participate in the co-ordination of, employment services, employment promotion and creation programmes, vocational guidance and vocational training programmes and unemployment benefit schemes, and they should co-ordinate, or participate in the co-ordination of, these various services, programmes and schemes with the implementation of general employment policy measures.

13. The competent bodies within the system of labour administration should be responsible for establishing, or promoting the establishment of, methods and procedures for ensuring consultation of employers' and workers' organisations, or--where appropriate--employers' and workers' representatives, on employment policies, and promotion of their co-operation in the implementation of such policies.

14.

(1) The competent bodies within the system of labour administration should be responsible for manpower planning or where this is not possible should participate in the functioning of manpower planning bodies through both institutional representation and the provision of technical information and advice.

(2) They should participate in the co-ordination and integration of manpower plans with economic plans.

(3) They should promote joint action of employers and workers, with the assistance as appropriate of public authorities and bodies, regarding both short-and long-term employment policies.

15. The system of labour administration should include a free public employment service and operate such a service effectively.

16. The competent bodies within the system of labour administration should, wherever national laws and regulations, or national practice, so permit, have or share responsibility for the management of public funds made available for such purposes as countering underemployment and unemployment, regulating the regional distribution of employment, or promoting and assisting the employment of particular categories of workers, including sheltered employment schemes.

17. The competent bodies within the system of labour administration should, in a manner and under conditions determined by national laws or regulations, or national practice, participate in the development of comprehensive and concerted policies and programmes of human resources development including vocational guidance and vocational training.

Research in Labour Matters

18. For the fulfillment of its social objectives, the system of labour administration should carry out research as one of its important functions and encourage research by others.

III. Organisation of the National System of Labour Administration

Co-ordination

19. The ministry of labour or another comparable body determined by national laws or regulations, or national practice, should take or initiate measures ensuring appropriate representation of the system of labour administration in the administrative and consultative bodies in which information is collected, opinions are considered, decisions are prepared and taken and measures of implementation are devised with respect to social and economic policies.

20.

(1) Each of the principal labour administration services competent with respect to the matters referred to in Paragraphs 5 to 18 above should provide periodic information or reports on its activities to the ministry of labour or the other comparable body referred to in Paragraph 19, as well as to employers' and workers' organisations.

(2) Such information or reports should be of a technical nature, include appropriate statistics, and indicate the problems encountered and if possible the results achieved in such a manner as to permit an evaluation of present trends and foreseeable future developments in areas of major concern to the system of labour administration.

(3) The system of labour administration should evaluate, publish and disseminate such information of general interest on labour matters as it is able to derive from its operation.

(4) Members, in consultation with the International Labour Office, should seek to promote the establishment of suitable models for the publication of such information, with a view to improving its international comparability.

21. The structures of the national system of labour administration should be kept constantly under review, in consultation with the most representative organisations of employers and workers.

Resources and Staff

22.

(1) Appropriate arrangements should be made to provide the system of labour administration with the necessary financial resources and an adequate number of suitably qualified staff to promote its effectiveness.

(2) In this connection, due account should be taken of--

(a) the importance of the duties to be performed;

(b) the material means placed at the disposal of the staff;

(c) the practical conditions under which the various functions must be carried out in order to be effective.

23.

(1) The staff of the labour administration system should receive initial and further training at levels suitable for their work; there should be permanent arrangements to ensure that such training is available to them throughout their careers.

(2) Staff in particular services should have the special qualifications required for such services, ascertained in a manner determined by the appropriate body.

24. Consideration should be given to supplementing national programmes and facilities for the training envisaged in Paragraph 23 above by international co-operation in the form of exchanges of experience and information and of common initial and further training programmes and facilities, particularly at the regional level.

Internal Organisation

25.

(1) The system of labour administration should normally comprise specialised units to deal with each of the major programmes of labour administration the management of which is entrusted to it by national laws or regulations.

(2) For example, there might be units for such matters as the formulation of standards relating to working conditions and terms of employment; labour inspection; labour relations; employment, manpower planning and human resources development; international labour affairs; and, as appropriate, social security, minimum wage legislation and questions relating to specific categories of workers.

Field Services

26.

(1) There should be appropriate arrangements for the effective organisation and operation of the field services of the system of labour administration.

(2) In particular, these arrangements should--

(a) ensure that the placing of field services corresponds to the needs of the various areas, the representative organisations of employers and workers concerned being consulted thereon;

(b) provide field services with adequate staff, equipment and transport facilities for the effective performance of their duties;

(c) ensure that field services have sufficient and clear instructions to preclude the possibility of laws and regulations being differently interpreted in different areas.

Cross references

Conventions: C081 Labour Inspection, 1947

Conventions: C129 Labour Inspection (Agriculture), 1969

Conventions: C088 Employment Service, 1948

Conventions: C122 Employment Policy, 1964

Conventions: C142 Human Resources Development, 1975

Conventions: C087 Freedom of Association and Protection of the Right to Organise, 1948

Conventions: C098 Right to Organise and Collective Bargaining, 1949

Conventions: C150 Labour Administration, 1978