

Information supplied by governments on the application of ratified Conventions

Swaziland

Convention No. 87

Swaziland

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

Swaziland (ratification: 1978). The Government has provided the following written information.

Progress report

There has been remarkable progress in dealing with the issues raised by the ILO in the 2015 report of the Committee of Experts. The progress on the issues is as set out below.

Amendment of the Industrial Relations Act to allow for registration of federations

The amendment has been effected through the Industrial Relations (Amendment) Act No. 11 of 2014 and is now law. Following the enactment of the amendment, the Trade Union Congress of Swaziland (TUCOSWA), the Federation of Swaziland Employers and Chamber of Commerce (FSE-CC), and the Federation of the Swaziland Business Community (FESBC) are now duly registered.

The ushering in of the amendment has created an interest from other labour market formations to form federations, hence some requested to attend the 104th Session of the Conference as observers.

The Government is fully committed to ensuring the full operationalization of all tripartite structures. It is in this regard therefore that, immediately following their registration, we have held a tripartite consultation meeting with the federations where the agenda of the 104th Session of the ILC and other issues were discussed. The Ministry of Labour and Social Security has also invited the federations to nominate members to serve on all statutory boards.

Amendment of the Industrial Relations Act to ensure that criminal and civil liability penalties do not impair the right to freedom of association: Sections 40(13) and 97

This issue has been dealt with in the Industrial Relations (Amendment) Act No. 11 of 2014 by amending the Act to ensure that civil and criminal penalties do not impair the right to freedom of association.

Validation of the Code of Good Practice on protest and industrial actions

In consultation with the ILO and following a review by the social partners and other stakeholders in July 2014, the Code of Good Practice was sent to the Attorney General for further review. At the meeting between the Government and the social partners, soon after their registration, the revised Code was circulated and now awaits comments from the social partners before the end of July 2015.

The Ministry will be following up on the offer from the ILO to provide training to the police, workers, employers and other stakeholders on the application of the Code.

Review of the Public Order Act, 1963

Following consultations between the Government and the ILO, a consultant has been selected to undertake a review of the Public Order Act, and we are working with the ILO to ensure that the consultant starts working in July 2015.

Review of the Suppression of Terrorism Act

The draft amendment to the Suppression of Terrorism Act has been referred back to Cabinet to ensure that the amendments will not compromise law and order. The revised bill will be presented to Parliament shortly.

The determination of minimum services in sanitary services (to ensure that workers are not unduly denied of their right to strike)

Following recommendations from the Essential Services Committee, sanitary services have been removed from the list of essential services from the Industrial Relations Act, meaning that the Government has responded fully to the ILO request (Legal Notice No. 149 of 2014).

Public Service Bill

The Bill was finalized, presented and received Cabinet's approval and will be published and presented to Parliament for debate.

The Correctional Services (Prison) Bill to allow for the right to organize for correctional services staff

As submitted in the Government report in November, 2014, the Labour Advisory Board (LAB) reviewed the draft bill. It has now been reviewed by Cabinet and referred back to the Minister for Justice and Constitutional Affairs for action.

This is a substantial piece of legislation as it addresses other issues, beyond the right to organize of correctional services staff. Therefore, other consultative meetings are still ongoing.

Registration of the Amalgamated Trade Union of Swaziland (ATUSWA)

As previously stated in reports to the ILO, the application for the registration of the Amalgamated Trade Union of Swaziland (ATUSWA) was defective. At the meeting with some of the founding members of ATUSWA, they conceded that their application was defective, and they have submitted a fresh application which is being reviewed.

Other issues

In addition to the legislative amendments, the Government wishes to address other issues, which have been referred to the Government, through various structures of the ILO. The issues include the following:

(a) Thulani Maseko

Mr Maseko was charged and convicted of contempt of court after publishing an article which constituted a scurrilous attack on the judiciary, calculated to undermine the rule of law in Swaziland. Mr Maseko elected to continue his attack on the judiciary throughout his trial, and this had a bearing on his sentence. The judgment in this case will be made available to the relevant ILO supervisory structures.

(b) Respect for the law

The Government has faced a total disregard for the laws of our country, provocation and violent assaults against police officers and fellow employees by the workers' federation, its affiliates and their members. This has resulted in conflict between the police and the federation, its affiliates and their members.

Convention No. 87 provides for freedom of association and respect for the law

The following are some of the acts of violence against the police, as well as other acts of violence and intimidation against fellow employees:

- (i) On 30 June 2014, two police officers, namely Constable Sihle Zwane and Hlengiwe Shabangu were assaulted with stones and had to be taken to hospital for treatment for injuries they sustained. This was during a strike action by the Swaziland Agricultural Plantations and Allied Workers Union.
- (ii) On 24 June 2014, during a strike action by the Swaziland Agricultural Plantations and Allied Workers Union, the Deputy National Commissioner of Police was held hostage by workers who would not let him out of his motor vehicle, while they also blocked police officers who intended to assist him.
- (iii) On 20 June 2014, fellow workers, who were exercising their right not to take part in a strike action, were poisoned (their tea was administered with poison). The employees are still under treatment.

These and other allegations are set out more fully in our letter to the ILO dated 24 November 2014.

The Industrial Relations Act provides the unions and federations with the right to engage on issues of public policy and public administration. However, the extent to which they may engage in such issues does not cover issues which are of a purely political nature (including advocating for regime change through violent means). Increasingly, the

activities of the workers' federation are being overwhelmed by a political agenda at the expense of its core and primary mandate, which is the advance of socio-economic interests of workers. To some extent, this has been responsible for the tension between the police and the workers' federation and its affiliates. We request the ILO to pass the message that freedom of association does not translate into lawlessness. It carries with it certain obligations for the maintenance of an orderly society.

Tangible progress has been made on the issues referred to the Government by the Committee of Experts. The Government thanks the Office of the ILO for the ongoing advice and assistance received, in particular from the Pretoria Office and requests its continued support to ensure that all parties exercise their rights with respect for the law.

The Government thanks the federations for their cooperation (where they did), for making all the work mentioned above a reality and encourages the social partners to strive to ensure the spirit of tripartism, partnership and cooperation, which must forever prevail for the socio-economic development of the country.

The Government also requests the trade and development partners of Swaziland to take note of the tangible progress made in addressing the issues raised by the ILO. Based on the positive progress, the year 2015 will be the year when trade relations with key development partners will be improved, thus improving economic development and employment.