

Committee on the Application of Standards

Date: 22 May 2023

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

Indonesia (ratification: 1957)

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

The Government has provided the following written information as well as a copy of Law No. 6/2023.

Update on the Job Creation Law

The Job Creation Law (Law No. 11/2020 and the amendment) does not amend the regulations on collective bargaining agreements (CBAs). The rules on CBAs remain under Law No. 13/2003 on Manpower and Law No. 2/2004 on Settlement of Industrial Relations Disputes.

Regarding CBAs for workers of small and medium-sized enterprises (MSEs), the Job Creation Law clearly stipulates that wages and workers' rights at the termination of employment (compensation and other financial rights) must be based upon agreement between workers and employers. This is because the financial capacity of SMEs is not as high as that of large companies.

With respect to the revision of the Job Creation Law (following the decision of Constitutional Court No. 91/PUU-XVIII/2020), the Government states that:

- Procedural and substantial revision of the Law has been conducted by the Government and Parliament through amendment of Law No. 12/2021 on the Creation of Law, to also include an "omnibus law" model and meaningful public participation.
- Concluding Law No. 6/2023 on the Enactment of Law No. 2/2022 on Job Creation is to replace Law No. 11/2020.
- The revision of the Job Creation Law has been through public socialization and engagement with various stakeholders (unions, employers, universities, and other public sectors). The Government also paid attention to proposals and suggestions from independent research institutions, notably on critical issues raised by the public.

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination

The Government reiterates that national law incorporates procedures to settle anti-union discrimination or violation of workers' rights to organize: Law No. 21/2000 on Workers' Unions and Law No. 2/2004 on Settlement of Industrial Relations Disputes. The Government encourages all workers and unions to utilize national procedures as stipulated by the law, if they believe that their rights have been violated.

Article 2. Adequate protection against acts of interference

The Government reiterates its previous comment that article 122 of the Manpower Act is not intended to allow interference by employers or government officials when workers are voting. As yet, the Government has not received complaints relating to the presence of employers and/or government officials during a vote. Article 122 is also an expression of Indonesia's sovereignty to regulate its domestic matters. There is no compelling reason to amend it.

Article 4. Promotion of collective bargaining

Based on Law No. 2/2004, the settlement of industrial relations disputes through an arbitration and industrial relations court can only take place after the parties in dispute have exhausted all measures of negotiation. Precisely as suggested by the Committee, the arbitration and industrial relations court serves as a final measure when negotiations between the parties fail.

The Government remains convinced that articles 5, 14, and 24 of Law No. 2/2004 are consistent with Article 4 of the Convention, as well as the principles of compulsory arbitration (as a last resort when repeated negotiations end in a deadlock). There is no compelling reason to amend the articles.

Recognition of organizations for the purposes of collective bargaining

The number of CBAs concluded at the end of 2021 was 17,495 agreements; at the end of 2022 it was 18,144 agreements.

Collective bargaining at the sectoral level

The Government as of now is still focusing on the creation of CBAs at the enterprise level to prevent disputes in the future, in line with Law No. 13/2003 on Manpower, and Ministerial Decree NO. 28/2014 on the Rules to Conclude and Validate Enterprise Regulations and the Conclusion and Registration of CBAs.

Export processing zones

Workers' rights to conclude CBAs in export processing zones (EPZs) remain guaranteed. To date, there has been 687 CBAs concluded in EPZs.