

RATIFICATION AND IMPLEMENTATION OF ILO CONVENTIONS 97 AND 143 ON MIGRANT WORKERS TO ACHIEVE FAIR LABOUR MIGRATION GOVERNANCE



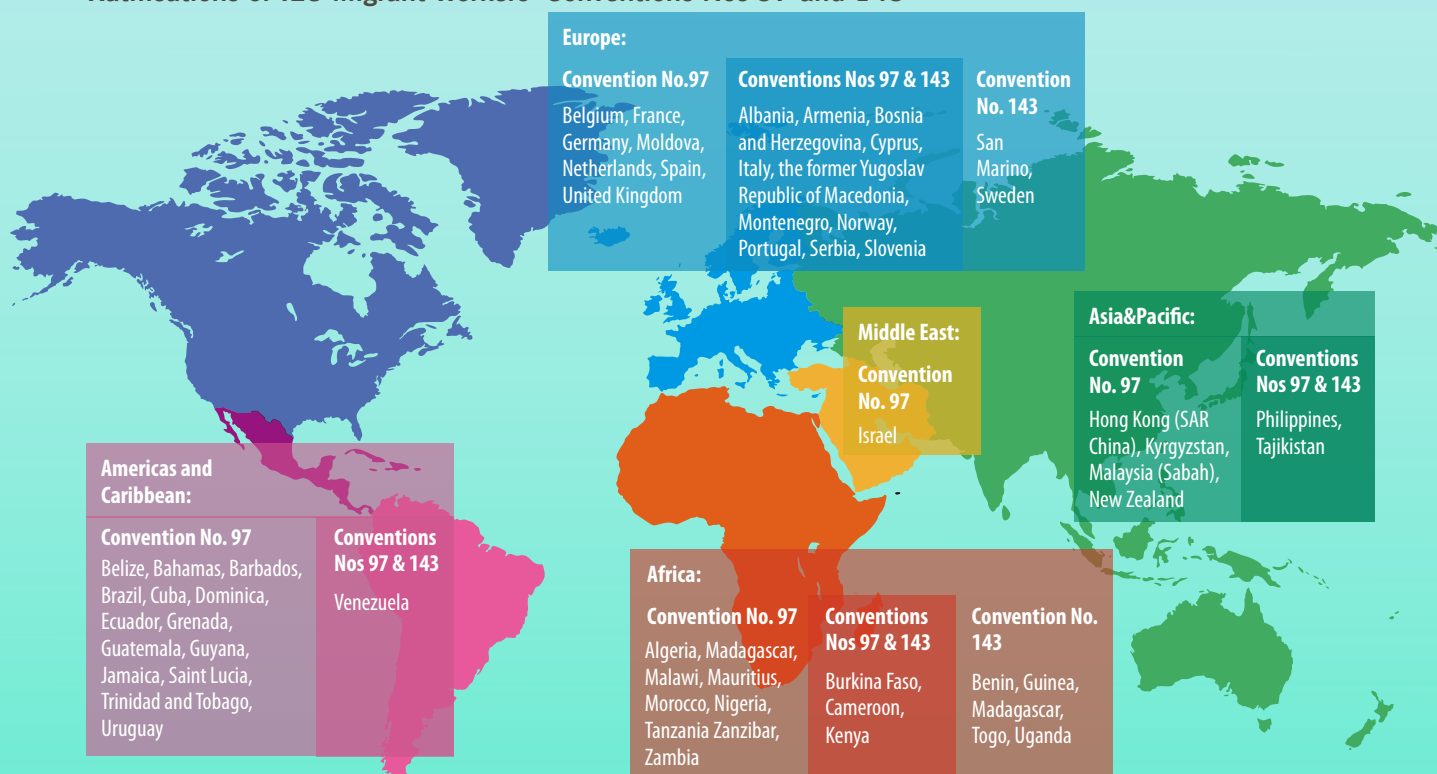
International Labour Organization



ILO Conventions on Migrant Workers promote Safe, Orderly and Regular Migration

Ratifying and effectively implementing ILO Conventions Nos 97 and 143 on Migrant Workers and its accompanying Recommendations Nos 86 and 151 is a key pillar in realizing the 2030 Agenda for Sustainable Development's labour migration-related goals and targets, the Global Compact on Safe, Orderly and Regular migration, as well as the implementation of ILO's Decent Work and Fair Migration Agendas.

Ratifications of ILO Migrant Workers' Conventions Nos 97 and 143



Countries identified by the General Survey as having reported intention to consider ratification of either or both Conventions:

Africa: Algeria, Benin, Morocco, Senegal, Sudan, Uganda; Asia: Nepal, Sri Lanka, Vietnam; Europe: Greece, France, Poland; Latin America & the Caribbean: Chile, Cuba, Ecuador
Middle East: Israel, Jordan

Achieving fair labour migration governance:

The 2016 "Promoting Fair Migration", General Survey concerning the Migrant Workers Instruments, Report of the Committee of Experts on the Application of Conventions and Recommendations:

- noted that the objectives of the instruments retain their relevance (as when they were adopted), for all migrant workers (irrespective of gender, origin, skill and status);
- mentioned that some governments reported their intention to consider the ratification of the instruments;
- highlighted that certain governments and a number of workers' organizations, in particular, considered that an ILO campaign to promote ratification and implementation of the instruments was desirable; and
- invited governments to consider adopting measures to give effect to the provisions of the instruments, in particular by engaging in tripartite dialogue on possible ratification of Conventions Nos 97 and 143.

Convention No. 97:

- Convention No. 97 promotes the conclusion of bilateral labour agreements (BLAs) between States where there is a considerable flow of migrant workers.
- BLAs can help origin, transit and destination countries by including specific provisions to combat abusive migrant recruitment practices, promote sound skills and jobs matching, portability of social security entitlements, etc.
- The accompanying ILO Recommendation No. 86 contains a model bilateral agreement in its Annex.

Convention No. 143:

Addressing irregular migration

- Convention No. 143 is the first attempt of the international community to address the problems arising out of irregular migration and illegal employment of migrants, while laying down the general obligation to respect basic human rights of all migrant workers.
- In fact, it aims to prevent all forms of irregular migration in abusive conditions, including the unlawful or unauthorized employment of migrant workers.
- It includes targeted provisions to address the problems arising out of irregular migration flows and illegal employment of migrants and on suppressing the activities of organizers of clandestine movements of migrants and their accomplices.

Fundamental rights at work of all migrant workers

- Convention No. 143 recognizes the need to ensure full respect of human rights of all migrant workers, including those in an irregular situation (Article 1).
- The eight ILO Fundamental Conventions: the right to freedom of association and collective bargaining (Conventions Nos 87 and 98), the prohibition and abolition of forced labour (Conventions Nos 29 and 105 as well as the 2014 Protocol to the Forced Labour Convention No. 29), the elimination of child labour (Conventions Nos. 138 and 182), as well as the right to equal remuneration and the prohibition of all forms of discrimination in employment and occupation (Conventions Nos 100 and 111).



Free choice of employment, loss of employment and consideration of regularization:

- Conventions Nos 97 and 143 do not affect the right of each Member State to refuse entrance or stay and to determine the methods of entry and stay. However, they recall that:
- Mere loss of employment of migrant workers legally in the territory should not automatically lead to irregular migration, nor imply the withdrawal of his/her residence and work permit.
- The migrant worker should enjoy equality of treatment in respect of security of employment, the provision of alternative employment, relief work and retraining.
- Member States may consider regularization of migrant workers, “Nothing in this Convention shall prevent Members from giving persons who are illegally residing or working within the country the right to stay and take up legal employment.”
- A Member State may decide to give to migrant workers the free choice of employment, while assuring the right to geographical mobility after a period no longer than two years.