



International
Labour
Organization

ILO Convention No.98 Right to Organize and Collective Bargaining Convention

Adoption: Geneva, 32nd International Labour Conference, 1949

Category: Fundamental Convention

Ratification: Viet Nam became the 167th member State of the International Labour Organization (ILO) to ratify Convention 98 on 5 July 2019.

*The Convention will come into force on **5 July 2020***

Link to full text: bit.ly/2mAfl9W

Key principles of the Convention



Protect workers and unions against anti-union discrimination



Unions are free from employers' interference or dominance



Promote voluntary collective bargaining through various measures

What is **collective bargaining**?

According to ILO Convention 154 on Collective Bargaining, **collective bargaining** refers to all negotiations which take place between an employer, a group of employers or one or more employers' organizations, on the one hand, and one or more workers' organizations, on the other, for

- (a) determining working conditions and terms of employment; and/or
- (b) regulating relations between employers and workers; and/or
- (c) regulating relations between employers or their organisations and a workers' organization or workers' organizations.

International and national context of the Convention

- As an ILO member State, Viet Nam should respect the **1998 ILO Declaration on Fundamental Principles and Rights at Work** (FPRW) which also covers the eight core conventions, including Convention 98, as they are basic and universal labour conditions for fair trade of goods and services in a globalized economy.
- Alignment with Convention 98 and other core conventions under FPRW have been required by the new generation of free trade agreements such as CPTPP (The Comprehensive and Progressive Agreement for Trans-Pacific Partnership) and the FTA between the EU and Viet Nam (EVFTA), and also most of corporate social responsibility (CSR) statements of multi-national corporations.
- Convention 98, together with Convention 87 on Freedom of Association and Protection of the Right to Organise, represents essential building blocks for a harmonious, stable and progressive industrial relations that can contribute to sustainable development by empowering workers and employers to find solutions through voluntary negotiations.
- The concept and practice of collective bargaining is not new to Viet Nam. The Labour Ordinance Number 29, adopted and signed by President Ho Chi Minh in 1947, has clear and simple legal provisions which are fully aligned with the ILO Convention 87 (1948) and Convention 98 (1949), which were adopted one and two years later respectively than the Labour Ordinance 29 (1947).
- The Party Resolution 27 (Resolution 27-NQ/TW dated 21 May 2018), which fully recognizes the importance of collective bargaining in fixing wages and working conditions, states that “enterprises implement wage policies based on negotiations and agreements between employers and workers’ collective representatives. The state should not directly intervene in the wage policy of enterprises”.

Collective bargaining is a key mechanism to determine wages and working conditions in a market economy. Convention 98 sets basic principles for making collective bargaining work for workers, employers and society. If trade union members or leaders have a fear of facing discrimination by employers because of their trade union activities and/or memberships, trade unions cannot function properly in their collective bargaining with employers. Convention 98 requires effective measures to prevent and deal with anti-union discrimination.

Also system of collective bargaining can function properly only when trade unions are free and independent from interference by employers. Convention 98 requires effective measures to ensure independence of both workers’ and employers’ organizations from interference from each other.

Finally, Convention 98 requires the government, workers’ and employers’ organizations to develop and utilize machinery to promote voluntary negotiations.

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