



# OBLIGATIONS OF ILO MEMBER STATES IN RESPECT OF CONVENTION NO. 190

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# OBLIGATIONS - SUMMARY

- (1) CONSULTATIONS** with representative organisations of workers and employers on proposals (C No. 144)
- (2) SUBMISSION** of the adopted instruments to the competent authorities
- (3) PERIODIC REPORTS** on the application of the Convention, if ratified

# **I. OBLIGATION TO ENSURE EFFECTIVE CONSULTATIONS**

## Tripartite Consultation (ILS) Convention, 1976 (No. 144)

- States must place into operation procedures to ensure **effective consultations** with representative organisations of workers and employers
- At least once a year, on specific ILO-related matters
- State must provide administrative support, and possibly financing of necessary training
- Decide if an annual report is necessary.
- W and E reps shall be freely chosen by representative orgs and participate on an equal footing

## MATTERS FOR CONSULTATION (ARTICLE 5)

- Government replies to questionnaires concerning items on the ILC agenda, and comments on proposed texts to be discussed by the ILC
- The proposals to be made to the competent authority in connection with the **submission** of Conventions and Recommendations
- The re-examination at appropriate intervals of unratified Conventions and of Recommendations to which effect has not yet been given, to consider measures to promote their implementation and ratification
- Questions arising out of reports to be made to the International Labour Office under Article 22 of the ILO Constitution
- Proposals for the denunciation of ratified Conventions

## **II. OBLIGATION TO SUBMIT ADOPTED ILO INSTRUMENTS TO THE COMPETENT AUTHORITIES**

## SUBMISSION (1)

Once a new ILO instrument has been adopted by the ILC, a Member State must

**(1) SUBMIT** the instrument before the country's competent authority (i.e. legislature, normally the Parliament) for its consideration and possible action, and

**(2) REPORT** to the ILO on the submission of the instrument, including any decisions taken by the competent authority

**TIME FRAME** – Submission must take place within **12 months** of the adoption of the instrument concerned (reminder sent by the Office after 12 months) or, at the latest, within **18 months**

## SUBMISSION (2)

- **PURPOSE** – To promote the implementation, at the national level, of ILO Conventions and Recommendations by obtaining a **rapid yet informed decision on the effect to be given to the instruments**
  - In the case of Conventions, the aim is also to promote **ratification**
- **FORM OF SUBMISSION** – Since purpose is to obtain a decision from the competent authorities, the submission of the instrument(s) should be accompanied by a **statement or proposals** setting out the Government's views, or recommendations, on the action to be taken with regards to the instruments



## SUBMISSION (3) – required action

- **OBLIGATION** is only to
  - SUBMIT the instrument, with a proposal or recommendation for action
  - REPORT on the outcome or result
- **THE OBLIGATION TO SUBMIT DOES NOT REQUIRE SPECIFIC ACTION**
  - Government may propose any action it deems appropriate, including (1) ratification (for a Convention); (2) the enactment of legislation giving effect to the instrument; (3) no action; (4) further study
  - The competent authority may, of course, decide upon any action it deems appropriate

## SUBMISSION (4)

### REPORT TO ILO ON SUBMISSION MUST INDICATE

- **WHO** the competent authority in the nation is, according to the country's Constitution or basic law
- **WHEN** the ILO instrument in question was submitted to the competent authority
- **WHAT GOVERNMENT PROPOSALS** were submitted together with the instrument
- **WHAT DECISIONS** were taken by the competent authority with respect to the submitted instruments
- **WHICH** representative workers' or employers' organisations the report was submitted
- **WHETHER** any observations from the organisations above were received, and their content

### **III. REPORTS ON RATIFIED CONVENTIONS**

## Reports on Ratified Conventions

- Based on Article 22 of the Constitution
- Periodic reports must be submitted to permit CEACR to assess how Conventions are being applied in each country
- Every **3 years**
  - 8 fundamental Cs
  - 4 governance Cs
- Every **5 years** – all other Conventions
- Must reach the Office between 1 June and 1 September
- Repeated failure to report discussed at the Conference

## FIRST REPORTS on ratified Conventions

- First report is due one year after the entry into force of the Convention (2 years after ratification)
- First reports can be submitted using a report **FORM**, available on the ILO website
- First report must be detailed
  - Must reply to all questions in the report form
  - Provide copies of relevant laws and regulations
  - Must state position of gov't on permitted exclusions and exceptions
  - Must provide information, including statistics if available, on how the Convention is being applied in practice

## SUBSEQUENT REPORTS

- Following the submission of the first report all subsequent reports can be prepared by responding to each of the specific requests contained in the CEACR comment
- Subsequent reports can be
  - Simplified – simply indicate minor changes to law, or provide information on practical application
  - Detailed – in reply to CEACR comments
- Reports can be requested **outside of the normal reporting cycle**
  - failure to provide reports in the requested year
  - Request by CEACR or ILS Conference Committee for a report

## Involvement of workers' and employers' orgs

- It is a constitutional obligation (Art. 23) of the Government to communicate copies of **all information and reports sent to the ILO** to the representative organizations of workers and employers
- These organisations must also be allowed to transmit their views on the reports, either to the ILO or to the Government



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