

► Annex 3: Forced Labour Protocol

Protocol of 2014 to the Forced Labour Convention, 1930 – P029

Preamble

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 103rd Session on 28 May 2014, and

Recognizing that the prohibition of forced or compulsory labour forms part of the body of fundamental rights, and that forced or compulsory labour violates the human rights and dignity of millions of women and men, girls and boys, contributes to the perpetuation of poverty and stands in the way of the achievement of decent work for all, and

Recognizing the vital role played by the Forced Labour Convention, 1930 (No. 29), hereinafter referred to as “the Convention”, and the Abolition of Forced Labour Convention, 1957 (No. 105), in combating all forms of forced or compulsory labour, but that gaps in their implementation call for additional measures, and

Recalling that the definition of forced or compulsory labour under Article 2 of the Convention covers forced or compulsory labour in all its forms and manifestations and is applicable to all human beings without distinction, and

Emphasizing the urgency of eliminating forced and compulsory labour in all its forms and manifestations, and

Recalling the obligation of Members that have ratified the Convention to make forced or compulsory labour punishable as a penal offence, and to ensure that the penalties imposed by law are really adequate and are strictly enforced, and

Noting that the transitional period provided for in the Convention has expired, and the provisions of Article 1, paragraphs 2 and 3, and Articles 3 to 24 are no longer applicable, and

Recognizing that the context and forms of forced or compulsory labour have changed and trafficking in persons for the purposes of forced or compulsory labour, which may involve sexual exploitation, is the subject of growing international concern and requires urgent action for its effective elimination, and

Noting that there is an increased number of workers who are in forced or compulsory labour in the private economy, that certain sectors of the economy are particularly vulnerable, and that certain groups of workers have a higher risk of becoming victims of forced or compulsory labour, especially migrants, and

Noting that the effective and sustained suppression of forced or compulsory labour contributes to ensuring fair competition among employers as well as protection for workers, and

Recalling the relevant international labour standards, including, in particular, the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Equal Remuneration

Convention, 1951 (No. 100), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Minimum Age Convention, 1973 (No. 138), the Worst Forms of Child Labour Convention, 1999 (No. 182), the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Domestic Workers Convention, 2011 (No. 189), the Private Employment Agencies Convention, 1997 (No. 181), the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), as well as the ILO Declaration on Fundamental Principles and Rights at Work (1998), and the ILO Declaration on Social Justice for a Fair Globalization (2008), and

Noting other relevant international instruments, in particular the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), the Slavery Convention (1926), the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956), the United Nations Convention against Transnational Organized Crime (2000), the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000), the Protocol against the Smuggling of Migrants by Land, Sea and Air (2000), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), the Convention on the Elimination of All Forms of Discrimination against Women (1979), and the Convention on the Rights of Persons with Disabilities (2006), and

Having decided upon the adoption of certain proposals to address gaps in implementation of the Convention, and reaffirmed that measures of prevention, protection, and remedies, such as compensation and rehabilitation, are necessary to achieve the effective and sustained suppression of forced or compulsory labour, pursuant to the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Protocol to the Convention; adopts this eleventh day of June two thousand and fourteen the following Protocol, which may be cited as the Protocol of 2014 to the Forced Labour Convention, 1930.

Article 1

1. In giving effect to its obligations under the Convention to suppress forced or compulsory labour, each Member shall take effective measures to prevent and eliminate its use, to provide to victims protection and access to appropriate and effective remedies, such as compensation, and to sanction the perpetrators of forced or compulsory labour.

2. Each Member shall develop a national policy and plan of action for the effective and sustained suppression of forced or compulsory labour in consultation with employers' and workers' organizations, which shall involve systematic action by the competent authorities and, as appropriate, in coordination with employers' and workers' organizations, as well as with other groups concerned.

3. The definition of forced or compulsory labour contained in the Convention is reaffirmed, and therefore the measures referred to in this Protocol shall include specific action against trafficking in persons for the purposes of forced or compulsory labour.

Article 2

The measures to be taken for the prevention of forced or compulsory labour shall include:

- a. educating and informing people, especially those considered to be particularly vulnerable, in order to prevent their becoming victims of forced or compulsory labour;
- b. educating and informing employers, in order to prevent their becoming involved in forced or compulsory labour practices;
- c. undertaking efforts to ensure that:
- d. the coverage and enforcement of legislation relevant to the prevention of forced or compulsory labour, including labour law as appropriate, apply to all workers and all sectors of the economy; and
- e. (ii) labour inspection services and other services responsible for the implementation of this legislation are strengthened;
- f. protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process;
- g. supporting due diligence by both the public and private sectors to prevent and respond to risks of forced or compulsory labour; and
- h. addressing the root causes and factors that heighten the risks of forced or compulsory labour.

Article 3

Each Member shall take effective measures for the identification, release, protection, recovery and rehabilitation of all victims of forced or compulsory labour, as well as the provision of other forms of assistance and support.

Article 4

1. Each Member shall ensure that all victims of forced or compulsory labour, irrespective of their presence or legal status in the national territory, have access to appropriate and effective remedies, such as compensation.

2. Each Member shall, in accordance with the basic principles of its legal system, take the necessary measures to ensure that competent authorities are entitled not to prosecute or impose penalties on victims of forced or compulsory labour for their involvement in unlawful activities which they have been compelled to commit as a direct consequence of being subjected to forced or compulsory labour.

Article 5

Members shall cooperate with each other to ensure the prevention and elimination of all forms of forced or compulsory labour.

Article 6

The measures taken to apply the provisions of this Protocol and of the Convention shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned.

Article 7

The transitional provisions of Article 1, paragraphs 2 and 3, and Articles 3 to 24 of the Convention shall be deleted.

Article 8

1. A Member may ratify this Protocol at the same time as or at any time after its ratification of the Convention, by communicating its formal ratification to the Director-General of the International Labour Office for registration.

2. The Protocol shall come into force twelve months after the date on which ratifications of two Members have been registered by the Director-General. Thereafter, this Protocol shall come into force for a Member twelve months after the date on which its ratification is registered and the Convention shall be binding on the Member concerned with the addition of Articles 1 to 7 of this Protocol.

Article 9

1. A Member which has ratified this Protocol may denounce it whenever the Convention is open to denunciation in accordance with its Article 30, by an act communicated to the Director-General of the International Labour Office for registration.

2. Denunciation of the Convention in accordance with its Articles 30 or 32 shall ipso jure involve the denunciation of this Protocol.

3. Any denunciation in accordance with paragraphs 1 or 2 of this Article shall not take effect until one year after the date on which it is registered.

Article 10

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications, declarations and denunciations communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Protocol shall come into force.

Article 11

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in accordance with article 102 of the Charter of the United Nations, full particulars of all ratifications, declarations and denunciations registered by the Director-General.

Article 12

The English and French versions of the text of this Protocol are equally authoritative.