

## Commentary on article 22 report forms

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## COVER PAGE

### Identifier

Appl. 22.189  
189. Domestic Workers, 2011

The reference in the top right corner identifies the report form as an article 22 report form for the Convention indicated.

### ILO Constitution

The present report form is for the use of countries which have ratified the Convention. It has been approved by the Governing Body of the International Labour Office, in accordance with article 22 of the ILO Constitution, which reads as follows: “Each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of the Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request.”

The front page of the report forms always includes a quotation of article 22 of the Constitution, which regulates the requirement to report on ratified Conventions.

### Reference to Recommendations

The Government may deem it useful to consult the appended text of the XXX Recommendation, XXXX (No. XXX), the provisions of which supplement the present Convention and can contribute to a better understanding of its requirements and facilitate its application.

When a Convention is supplemented by a Recommendation it will be appended to the report form as it may contribute to a better understanding of the Convention. This will be noted on the front page of the form together with a recollection – formulated with some variations - that there is no obligation to report on the application of recommendations. In one case - the report form for the Employment Policy Convention, 1964 (No. 122) (reprinted 1986) - includes a reference to another type of document.

**Reminder:** The Safety Provisions (Buildings) Convention, 1937 (No. 62) and the Hygiene (Commerce and Offices) Convention, 1964 (No. 120) both include requests to report on provisions in supplementing Recommendations. In both these cases, however, the Conventions include express provisions to that effect.

## Inter-ministerial consultations

The subject-matter of the Convention may go beyond the immediate competence of the ministry responsible for labour matters, so that the preparation of a full report on the Convention may require consultation with the other ministries or government agencies concerned.

Several of the more recent report forms include a reminder that inter-ministerial consultations may be required as the subject matter may go beyond the immediate competence of the ministry responsible for labour matters. Even if no such reminder is included in the report form, national administrations are well advised to consider whether any such consultations may be needed in order to complement the information available. In that case, you should make arrangements for such consultations in good time when you are preparing your reports.

**Reminder:** A recent re-arrangement of the regular reporting cycle included a decision to group Conventions by subject matter. If your country has ratified several Conventions on, for example, occupational safety and health, you would be requested to report on all those Conventions the same year. This would enable you to consult with, for example, the Ministry of Health, on all reports at the same time. If the Committee of Experts on the Application of Conventions and Recommendations [Committee of Experts] has found cause to break the regular reporting cycle you will not be able to benefit from this possibility.

## Practical guidance for drawing up reports

Report form adopted (or reprinted) after 1985 include guidance regarding the distinction introduced between *first* and *subsequent* reports. This distinction, which applies generally, was introduced in the context of efforts to simplify and render more efficient the article 22 reporting procedures. While a first report always should contain full information on each of the provisions of the Convention and on each of the general questions in the report form, subsequent (or *simplified*) reports should include information on: *changes (legislative or other) that have occurred since your last report*, and *application in practice (in that period)*. In addition, and in all cases, you must reply to any comments from the supervisory bodies and include any relevant information regarding observations from employers' or workers' organizations.

### *First reports*

If this is your Government's first report following the entry into force of the Convention in your country, full information should be given on each of the provisions of the Convention and on each of the questions set out in the report form.

### *Subsequent reports*

In subsequent reports, information need normally be given only:

- (a) on any new legislative or other measures affecting the application of the Convention;
- (b) in reply to the questions in the report form on the practical application of the Convention (for example, statistics, results of inspections, judicial or administrative decisions) and on the communication of copies of the report to the representative organizations of employers and workers and on any observations received from these organizations;
- (c) **in reply to comments by the supervisory bodies:** the report must contain replies to any comments regarding the application of the Convention in your country which have been made by the Committee of Experts on the Application of Conventions and Recommendations or by the Conference Committee on the Application of Standards.

**Reminder:** The supervisory bodies may always require you to submit a detailed report. Furthermore, if there have been significant changes in legislation in your country, you are, at your own initiative, required to submit a detailed report.

## **SECOND PAGE**

Report for the period \_\_\_\_\_ to \_\_\_\_\_  
made by the Government of \_\_\_\_\_  
on the XXX Convention  
(ratification registered on \_\_\_\_\_)

The time period covered by your report is significant. If this is your first report, you are required to provide information on the implementation of the Convention from the entry into force of the Convention for your country until the date when you finalize your report.

**Reminder:** A Convention enters into force one year after the registration of the ratification.

In case you are submitting a detailed report following significant legislative changes in your country, you should report on the situation after the entry into force of that new legislation until the date when you finalize your report. If you are preparing a simplified report, you are only required to provide information on the application of the Convention in your country *since your last report*. The starting date of the period

you should report on in a simplified report should be the end date of your last report. The end date should be the date you finalize your report.

## QUESTION I

### Types of information requested

**Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention.**

In a large majority of cases, ILO Conventions should be implemented by adopting laws and regulations reflecting the provisions of the Conventions. However, many Conventions provide that they can be implemented by other means such as by:

- Constitutional provisions;
- customary law and practice;
- statutory orders;
- collective agreements and works rules;
- arbitration awards;
- court decisions;
- policy statements;
- plans for action;
- international bi-or multilateral agreements;
- other manners, measure or methods (consistent with national practice).

The information requested under this heading in each report form will reflect the provisions of the Convention at issue and be formulated accordingly. In some cases the relevant Article of the Convention is reproduced in this general question.

### Transmission of information

**Where this has not already been done, please forward copies of these texts to the International Labour Office with this report ... or provide references to publicly accessible sites from where they may be downloaded electronically.**

The reports, as well as the documents annexed thereto, are often transmitted to the ILO through regular mail or by fax. If you rely on the traditional regular mail please ensure that the relevant documents are transmitted to the ILO in good time. The ILO is piloting a project for the online transmission of reports and governments are encouraged to transmit relevant documents electronically or by reference to publicly available web-sites, if this is possible and practicable.

Laws, regulations and other documents already submitted to the ILO, need not be resubmitted the next time you report. Furthermore, if laws and regulations or other documents are relevant for the application of several different Conventions on which you are reporting, you only need to submit the documents once, together with detailed references.

## **Adjustments of national laws and regulations**

**Please give any available information concerning the extent to which national laws and regulations have been enacted or modified to permit, or as a result of, ratification.**

The procedures for the ratification of a Convention in your country may have triggered a need to adjust national legislation or take any other relevant action to ensure full compliance with the provisions of the Convention. If this has been the case in your country, the ILO values receiving information in this respect as it will contribute to an understanding of the impact of ILO Conventions in your country. You are therefore requested to include information in this respect in your reports.

## **QUESTION II**

### **Detailed information on effect given to the Convention**

**Please indicate in detail for each of the following Articles of the Convention the provisions of the abovementioned laws and regulations, etc., or other measures, which give effect to each Article.**

The operative provisions of the Conventions (i.e. excluding the final provisions) are reproduced in Question II of each report form (in regular type font). You are requested to provide detailed information on how your laws and regulations (and other texts, as appropriate) give effect to each of the different Articles of the Convention. Follow the structure of the Convention and provide the relevant information with clear and precise references to the relevant sources. It is thus not sufficient only to refer to laws, regulations, etc. you will have listed previously in response to Question I. Please note that providing *clear and detailed* references to sources it is essential to avoid misunderstandings and unnecessary requests from the Committee of Experts for clarifications.

A constant concern regarding reports from a large number of countries is the availability of relevant documents – in particular legislation – in one of the working languages of the ILO. The translation of lengthy legal texts requires a significant investment of time and resources. A helpful solution offered by some countries has

been to include unofficial translations of selected provisions of central pieces of legislation in their reports. This method has several advantages including the fact that it assist the ILO to determine, whether and to what extent further translations of texts will be required.

**Reminder concerning permitted exclusions, exceptions or other limitations:**

Several Conventions allow given categories of people, economic activities or geographical areas to be exempted from application, but require a ratifying State which intends to make use of such limitations to indicate in its first article 22 report the extent to which it has recourse to them. *It is essential that first reports include indications in this respect*, since, if they do not, the limitations will no longer be possible. Note also that the permitted exclusions, exceptions or other limitations are often temporary. In such cases you will, in subsequent reports, be requested to include information on measures taken to extend the scope of application of the Convention to the excluded categories of persons, activities or areas.

## **Additional information**

**In addition, please give any information specifically requested on the different Articles.**

In most cases the Articles of the Conventions will be accompanied by an additional requests for information *in italics* to distinguish them from the texts of the Convention itself. These are *additional* requests, and you should in all cases also provide information on how the provision of the Convention is applied.

## **Information on effect of ratification**

**If in your country ratification of the Convention gives the force of national law to its terms, please indicate by virtue of what constitutional provisions the ratification has had this effect.**

Ratification of international treaties like ILO Conventions has different effects at the national level and may, by virtue of Constitutional provisions, give them the force of internal law. If this is the case in your country, you are requested to provide information in this respect.

## **Information on incorporation in national law**

**Please also specify what action has been taken to make effective those provisions of the Convention which require a national authority to take certain specific measures.**

Even if ratification of a Convention gives it the force of national law in your country it is still necessary for your Government to take specific measures to incorporate the provisions of the Convention in your national law:

- (a) to eliminate any conflict between the provisions of the Convention and earlier national law and practice;
- (b) to give effect to any provisions of the Convention which are not self-executing (such as provisions requiring certain matters to be prescribed by national laws or regulations or determined by the competent authorities, or requiring special administrative arrangements);
- (c) to prescribe penalties, where appropriate;
- (d) to ensure that all interested persons and authorities (e.g. employers, workers, labour inspectors, courts, tribunals, other administrative bodies) are informed of the incorporation of the Convention into internal law and, where necessary, given guidance.

## **Information requested by the supervisory bodies**

**If the Committee of Experts on the Application of Conventions and Recommendations or the Conference Committee on the Application of Standards has requested additional information or has made an observation on the measures adopted to apply the Convention, please supply the information asked for or indicate the action taken by your Government to settle the points in question.**

As already recalled under “*Practical guidance for drawing up reports*” on the front page, it is essential that your article 22 reports include a full reply to any requests for information by the supervisory bodies of the ILO. Providing appropriate and complete information may avoid any misunderstandings and will allow the supervisory bodies to focus on actual issues. If you have been unable to obtain all the information required, describe the measures you have taken to respond to the questions asked and supply any results of your efforts.

## **ENSUING QUESTIONS**

The ensuing questions address issues that are raised in most, but not all report forms. As the number of each question may vary in individual report forms, focus is on the subject matter instead.

## **QUESTION on the relevant implementing authority**

Please state to what authority or authorities the application of the abovementioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular please supply information on the organization and working of inspection.

The large majority of report forms include a request for information on the implementing authority of relevant national legislation with a particular request for information on the labour inspection services in the country. In some cases, the Conventions already include a provision to this effect, which makes a general question on this issue redundant. In other cases, the Conventions include specific provisions regarding the implementing authority, which then often are reproduced as a specific question in this part of the report form. Please note that it is particularly important to provide information on the inspection services in your country if you are not a party to the Labour Inspection Convention, 1947 (No. 81). If you are a party thereto you may wish to refer to your reports submitted on that Convention.

## **QUESTION on decisions by court or law or other tribunals**

**Please state whether courts of law or other tribunals have given decisions involving questions of principle relating to the application of the Convention. If so, please supply the text of these decisions.**

Information on decisions by courts of law or other tribunals is highly valued by the supervisory bodies as such decisions may provide a more in depth understanding of the application of the Convention in your country. Please consider addressing requests for such information from relevant courts of law or other tribunals at an early stage in your preparation of the reports.

## **QUESTION on technical assistance received**

**If your country has received assistance or advice within the context of a technical cooperation project being carried out by the ILO, please indicate what action was taken as a result. Please indicate also any factors which may have prevented or delayed such action.**

Technical cooperation projects require an investment of time and efforts for all parties concerned and it is important to follow up on the outcome of such projects. Please ensure that information on technical cooperation projects which are relevant for the application of the Convention at issue is collected in due time and included in your report. Relevant projects may, for instance, include technical cooperation

projects related to the Decent Work Programmes where the application of international labour standards from a more general perspective may be at issue.

## **QUESTION on a general appreciation on application in practice**

**Please give a general appreciation of the manner in which the Convention is applied in your country, including for instance extracts from the reports of the inspection services, and, if such statistics are available, information concerning the number and nature of the contraventions reported etc. Please indicate any practical difficulties encountered in the application of the Convention.**

It is of utmost importance for the supervisory bodies to have appropriate and adequate information on the application in practice of a Convention. You are well advised to read this general question attentively in each report form as it will, in many cases, contain details regarding the specific type of information that you are requested to collect and include in your report.

One of the importance sources of information in this respect is the outcome of the work of the inspection services. To the extent that the information you provide includes statistical information, please ensure that this information spans over a period of time which enables an evaluation of the trends. Isolated information covering a brief period of time is difficult to evaluate. This type of information is often bulky and the provision of selective, targeted information is always welcomed.

The practical application of a Convention is a process which in many cases may be cumbersome and lengthy. The practical difficulties that may be encountered will vary from country to country and will depend on their specific legal, social, economic and developmental contexts. Providing specific information in this respect will assist the supervisory bodies in their efforts to offer possible solutions.

## **QUESTION on consultations with social partners**

**Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organization. If copies of the report have not been communicated to representative organizations of employers and/or workers, or if they have been communicated to bodies other than such organizations, please supply information on any particular circumstances existing in your country which explain the procedure followed.**

This question, which is constitutionally based, is invariably included in each report form and reflects the essential and basic tripartite nature of the article 22 reporting procedure. Please note that if information is not provided in this respect, the Office will be required to send reminders which will delay the handling of the report.

**Reminder:** Article 23, paragraph 2, of the ILO Constitution reads as follows: Each member shall communicate to the representative organizations recognized for the purpose of article 3, copies of the information and reports communicated to the Director-General in pursuance of articles 19 and 22.

## **QUESTION on observations received from social partners**

**Please indicate whether you have received from the organizations of employers or workers concerned any observations, either of a general kind or in connection with the present or the previous report, regarding the practical application of the provisions of the Convention or the application of the legislation or other measures implementing the Convention. If so, please communicate the observations received, together with any comments that you consider useful.**

Organizations of employers or workers have the option to provide observations on the application of the Convention in your country either by transmitting it to your Government or directly to the ILO. In the former case you should communicate the observations received to the ILO with your report. Most often such observations will simply be appended thereto. If you receive such observations from organizations of employers or workers you have the opportunity to comment thereon in your report before it is transmitted. In such a case, please indicate this clearly in your report. Depending on the situation you may wish to do so under the articles of the Convention at issue, or separately thereafter.

**Reminder:** Please note that the ILO receives a large number of observations directly from organizations of employers or workers, particularly in the first weeks of September each year. These are transmitted to governments concerned for comments as soon as is practically possible. If you are asked to comment on any such observations, you are kindly requested to do so as soon as possible in order to enable the handling of your report in due time.