

VI. Regular machinery for supervising the observance of obligations arising under or relating to Conventions and Recommendations

52. *Regular supervisory bodies.* On the basis of a resolution adopted by the Eighth Session of the International Labour Conference in 1926, the Committee of Experts on the Application of Conventions and Recommendations and the Conference Committee on the Application of Standards were given responsibility for regular supervision of the observance by member States of their standards-related obligations.

A. Committee of Experts

53. *Composition, fundamental principles and terms of reference.*¹ Members of the Committee are appointed by the Governing Body on the proposal of the Director-General for renewable periods of three years. Appointments are made in a personal capacity among completely impartial persons of technical competence and independent standing. They are drawn from all parts of the world, in order that the Committee may enjoy first-hand experience of different legal, economic and social systems. The Committee's fundamental principles are those of independence, impartiality and objectivity in noting the extent to which the position in each State appears to conform to the terms of the Conventions and the obligations accepted under the ILO Constitution. In this spirit, the Committee is called on² to examine:

- (i) the annual reports under article 22 of the Constitution on the measures taken by Members to give effect to the provisions of Conventions to which they are parties, and the information furnished by Members concerning the results of inspection;
- (ii) the information and reports concerning Conventions and Recommendations communicated by Members in accordance with article 19 of the Constitution;
- (iii) information and reports on the measures taken by Members in accordance with article 35 of the Constitution.

54. *Organization of the Committee's work*

- (a) The Committee meets on dates determined by the Governing Body.³
- (b) At each session's opening sitting, the Committee holds elections to the Chair and the office of Reporter.
- (c) The Committee meets in private. Its documents and deliberations are confidential.
- (d) The United Nations is invited to be represented at appropriate Committee sessions. When the Committee deals with instruments or matters related to the competence of other specialized agencies of the United Nations system, representatives of those agencies may be invited to attend the sitting.
- (e) The Committee assigns to each of its members initial responsibility for groups of Conventions or subjects. Reports and information received early enough by the Office are forwarded to the member concerned before the session. The member responsible for each group of Conventions or subject may take the initiative of consulting other members — and any other member may ask to be consulted — before the preliminary findings are submitted to the Committee as a whole in the form of draft observations and direct requests. The wording is at this stage in the sole discretion of the member responsible. All the preliminary findings are then considered, for approval, by the Committee as a whole.

¹ The fundamental principles, terms of reference and methods of work of the Committee are restated in the Committee's report to the 73rd Session of the Conference (1987), Report III (Part 4A).

² These terms of reference are as revised by the Governing Body at its 103rd Session (1947).

³ From November-December 1995, the meetings take place around the beginning of December each year.

- (f) The Committee appoints working parties to deal with general or specially complex questions, such as general surveys of reports under articles 19 and 22 of the Constitution.¹ Working parties include members with knowledge of different legal, economic and social systems. Their preliminary findings are submitted to the Committee as a whole.
- (g) Documentation available to the Committee includes the information supplied by governments in their reports² or in the Conference Committee on the Application of Standards; relevant legislation, collective agreements and court decisions; information supplied by States on the results of inspections; comments of employers' and workers' organizations; reports of other ILO bodies (such as commissions of inquiry or the Governing Body Committee on Freedom of Association) and reports of technical cooperation activities.
- (h) The Committee has asked the Office where necessary to prepare a comparative analysis of the ratifying State's national law and practice vis-à-vis each Convention, which is considered by the member responsible. It has also asked the Office to prepare for the member responsible notes on legal questions necessary for the examination of the information provided.
- (i) Although the conclusions of the Committee have traditionally represented unanimous agreement among its members, decisions can be taken by a majority. Where that happens, it is the established practice of the Committee to include in its report opinions of dissenting members if they so wish, together with any response of the Committee as a whole.
- (j) The qualified secretariat which is necessary to the work of the Committee is placed at its disposal by the Director-General of the ILO.
- (k) The report of the Committee is in the first place submitted to the Governing Body³. The final findings take the form of:
- Part One:*⁴ a general report (giving an overview of the Committee's work and drawing the Governing Body's, the Conference's and member States' attention to matters of general interest or special concern);
 - Part Two:* individual *observations*⁵ as to (i) the application of ratified Conventions in member States; (ii) the application of Conventions in non-metropolitan territories for whose international relations member States are responsible; and (iii) the submission of Conventions and Recommendations to the national competent authorities;
 - a series of *direct requests*:⁶ further individual comments addressed to governments by the Director-General of the ILO on behalf of the Committee;

¹ See paras. 42 to 51, above.

² See also para. 45(c) above.

³ The entire findings of the Committee of Experts, including *direct requests*, are published in the ILOLEX database.

⁴ Parts One and Two appear in a single volume, Report III (Part 4A), to the subsequent session of the International Labour Conference.

⁵ (i) *Observations* are generally used in more serious or long-standing cases of failure to fulfil obligations. In particularly important cases, the Committee may add a *footnote* requesting the government to send a *detailed report* in advance of the date when a report would otherwise be due under the reporting system described in para. 34 above. It may also add a *footnote* asking the government to supply full particulars to the Conference. (ii) *Observations of satisfaction* are used in cases of progress, where a government has taken the measures called for by earlier comments of the Committee.

⁶ These do not appear in the report to the Conference, but are listed under the individual observations on each Convention in Part Two. They may relate to matters of secondary importance or technical questions or seek clarification to enable a more full assessment of the effect given to obligations. They may, like *observations*, include *footnotes* asking for a *detailed report* in advance of the date on which it would otherwise be due.

- a series of *acknowledgements*:¹ when a government has given a full reply to a direct request asking for further information and there is no need for further comment;

Part Three:² a *general survey* of national law and practice in regard to the instruments on which reports have been supplied on unratified Conventions and on Recommendations under article 19 of the Constitution.

55. *Communication of Committee of Experts' comments to governments*

- (a) Each year, the requests for reports on ratified Conventions sent to governments in February are accompanied by copies of any relevant comments of the Committee of Experts, including those adopted by the Committee at its session the previous December.
- (b) The Committee of Experts' report is published in March and immediately sent to governments.
- (c) Direct requests concerning submission to the competent authorities (as well as observations, which are already published in the report of the Committee) are transmitted together with the Memorandum on submission³.

B. Conference Committee on the Application of Standards

56. *Composition and officers*. The Committee is set up under article 7 of the Standing Orders. It is tripartite, consisting of representatives of governments, employers and workers.⁴ The Committee holds elections from among each of the three groups to the Chair and two Vice-Chairs and to the office of Reporter⁵.

57. *Terms of reference*⁶

- (i) The Committee has to consider:
 - (a) the measures taken by Members to give effect to the provisions of Conventions to which they are parties and the information furnished by Members concerning the results of inspections;
 - (b) the information and reports concerning Conventions and Recommendations communicated by Members in accordance with article 19 of the Constitution;
 - (c) the measures taken by Members in accordance with article 35 of the Constitution.
- (ii) The Committee has to submit a report to the Conference.

58. *Organization of the Committee's work*. Following the independent, technical examination of documentation carried out by the Committee of Experts, the proceedings of the Conference Committee present an opportunity for representatives of governments, employers and workers to meet and review the manner in which States are discharging their obligations under and relating to Conventions and Recommendations. Governments are able to amplify information previously supplied; indicate further measures proposed; draw attention to

¹ These too are listed under the individual observations on each Convention in Part Two.

² This forms a separate volume, Report III (Part 4B). The *general survey* will cover also (although subject to limitation in the case of special article 19 reports on Convention No. 111 mentioned in para. 46 above) information received under article 22 from countries which have ratified Conventions in question. *General surveys* allow the Committee, in addition to reviewing national law and practice in member States, to examine difficulties raised by governments as standing in the way of application of instruments, clarify their scope and indicate possible means of overcoming obstacles to their implementation.

³ As to which, see above, para. 12.

⁴ Any voting is weighted so as to yield equal strength for each group (SO, article 65 and standing practice of the Conference).

⁵ SO, article 57.

⁶ Under SO, article 7.