Ratification Process of New International Labour Standards

Please note that each State has its own internal ratification process. However there is a general Ratification Process of ILO Conventions that follows this scheme as stated in Article 19 (5) of the ILO Constitution:

1) **Submission to the “competent national authorities”**

   - Once an ILO Convention/Recommendation has been adopted by the International Labour Conference, the instrument is sent to all Member States for consideration.
   - The ILO Constitution requires that the instrument be sent to the representatives of the national organisations of employers and of workers as well as to the governments.
   - The ILO Constitution requires that Member States (in consultation with representatives of employers’ and workers’ organisations, and in some cases other relevant government institutions) submit the instruments to the “competent national authorities” for the enactment of legislation or other actions, including possible ratification. The competent authority is normally the national Parliament, Legislative Assembly or Congress. This procedure is more complicated for federal states, but the ILO Constitution has instructions to be followed in such cases.

The principle of submission is an important one because it aims at making the contents of the ILO instruments known to the public, to raise awareness and stimulate public debate and involvement in important labour and social matters.

ILO instruments are the outcome of long-term debates at the International Labour Conference where all the ILO constituents are represented. They are therefore accepted international labour standards with a normative value influencing national attitudes and policies.

This means that whether or not a Convention is ratified by the country, it serves a purpose by being available as a model that has already been agreed upon by the tripartite partners at the ILO.

When a government (normally the Ministry of Labour) submits the instruments to the competent authorities, it is expected to indicate what action it considers desirable.

Within one year of the adoption of the instruments (or at the latest within 18 months), Member States are required to complete this submission and report back to the Director General of the ILO in extensive detail, telling what they have done and the actions taken by the competent national authorities.

2) **If a Member State decides to ratify**

When a Member State ratifies the Convention, it agrees to two important things:

   - It agrees to implement the Convention. Thus, national legislation must be reviewed *vis-à-vis* the provisions of the Convention.
   - It must report on a regular basis on the application of the Convention to the supervisory mechanisms of the ILO. The regulatory supervisory machinery of the ILO comes into force 12 months after the Director General of the ILO has been notified of the ratification.

3) **If a Member State takes no action**

The Committee of Experts will remind the Member State of its obligation to submit the ILO instrument to the competent authorities. A first reminder is sent out 12 months after the closing of the ILO Conference session. A second reminder is sent out after 18 months have elapsed.

4) **If a Member State chooses not to ratify the Convention**

After the state has submitted the instrument to its competent national authorities, the Governing Body of the ILO may request the state to report at appropriate intervals, showing the impediments to ratification that exist at the level of national law and practice.
ILO Supervisory Mechanism

The ILO has developed a whole machinery to ensure the application of the Conventions and Recommendations the ILO constituents have adopted.

There are two kinds of supervisory mechanism:
- the regular system;
- special procedures (representation, complaint, special procedure regarding freedom of association).

1) Regular system

Once a State has ratified a Convention, the Member State has to report regularly on the implementation of this instrument according to a calendar defined by the ILO. Please refer to article 22 of the ILO constitution.

Some conventions, the eight fundamental conventions that are part of the ILO Declaration on Fundamental Principles and Rights at work (1998), have to be respected by all Member States whether they have ratified it or not. As Member States of the ILO, they have to comply with them and to report regularly on them as stated in the ILO Constitution (article 19).

These four principles and eight conventions are:
- **Freedom of association and the effective recognition of the right to collective bargaining** (Conventions 87 and 98)
- **Elimination of all forms of forced or compulsory labour** (Conventions 29 and 105)
- **Effective abolition of child labour** (Conventions 138 and 182)
- **Elimination of discrimination in respect of employment and occupation** (Conventions 100 and 111)

The regular system of supervision is based on the examination by two ILO bodies of reports on the application in law and practice sent by member States and on observations in this regard sent by workers’ organizations and employers’ organizations.
- The Committee of Experts on the Application of Conventions and Recommendations
- The International Labour Conference’s Tripartite Committee on the Application of Conventions and Recommendations
2) Special procedures

Unlike the regular system of supervision, the special procedures consist in three procedures listed below that are based on the submission of a representation or a complaint.

1) Procedure for representations on the application of ratified Conventions.
   Any organization of employers or workers, be it national or international, may make a representation to the ILO if it deems that a member State has not properly applied a Convention which it has ratified.
2) Procedure for complaints over the application of ratified Conventions. Any member State may lodge a complaint with the ILO against another member State which, in its opinion, has not satisfactorily implemented a Convention they have both ratified. The Governing Body may also follow an analogous procedure, either on its own initiative or in response to a (government, employer or worker) delegate to the International Labour Conference.
3) Special procedure for complaints regarding freedom of association (Freedom of Association Committee - CFA).

The procedures on freedom of association were established in 1950, following an agreement between the ILO and the United Nations Economic and Social Council. The main characteristic of these procedures is that complaints may be made against member States even if they have not ratified the Conventions on freedom of association, by reason of their membership of the Organization, which entails their formal acceptance of the principles contained in the Constitution.
Complaint on freedom of association, regardless of whether a country has ratified the relevant Convention, by:

- a national organization directly interested in the matter;
- an international organization of employers or workers which has consultative status at the ILO;
- another international organization of employers or workers, when the allegations relate to matters concerning affiliated organizations;
- a government.

Possible further communication with complainant

Communication with government in question

Committee on Freedom Association
(Examines case and prepares report with conclusions and recommendations)

In serious or urgent cases, the DG may send a representative to the country to investigate.
(Direct contact)

If a government fails to reply or delays, the GB may launch an "urgent appeal" and, failing a reply, proceed by default

Governing Body
(Discusses and approves the report)

Government is given report to take action to implement the recommendations

When a country has ratified the relevant Convention, follow-up on action taken to implement the recommendations is referred to the Committee of Experts

When a country has not ratified the relevant Convention, the CFA may instruct the DG to follow up on action taken to implement the recommendations or it may do so itself.