



International
Labour
Office

Tripartite Consultation: Ratify and apply Convention No. 144

144

Tripartite Consultation
(International Labour Standards)
Convention, 1976 (No. 144)

INFOCUS
PROGRAMME ON
SOCIAL DIALOGUE,
LABOUR LAW
AND LABOUR
ADMINISTRATION

The ILO and tripartism



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Since its foundation in 1919, the International Labour Organization (ILO) has promoted cooperation between employers, workers and governments to bring about social justice. These three partners take part in all discussions and decision-making on international labour matters, with a view to the establishment of “universal and lasting peace” and the promotion of decent work for all. This tripartite structure is a feature of the ILO making it unique within the United Nations system.

Effective and meaningful tripartite cooperation at the national level is just as important as it is at the international level. For this reason, not only does the ILO Constitution provide a clear role for both employers’ and workers’ organizations in relation to the adoption and supervision of international labour standards (i.e. Conventions and Recommendations), but most of these instruments also provide a role for them in implementation at the national level. There are also specific Conventions and Recommendations promoting tripartite consultation at the national level.

There are three important instruments that promote tripartism. The International Labour Conference of the ILO adopted Convention No. 144 in 1976, entitled the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). It adopted Recommendation No. 152 at the same time: the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152). Recommendation No. 113, or the Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113), also promotes dialogue between the three parties.

Convention No. 144 requires effective consultation between government, employers’ and workers’ representatives at each stage of the standards-related activities of the ILO, from setting the agenda of the International Labour Conference, through the supervision of the application of standards, to “denunciation”, i.e. the formal act by a member State of declaring non-binding a Convention which it had previously ratified.

A priority

The purpose of Convention No. 144 is to promote tripartism and social dialogue at the national level through ensuring the involvement of employers’ and workers’ organizations at each stage of ILO’s standards-related activities. Accordingly, the ILO has designated the ratification and implementation of Convention No. 144 as a priority. The Convention has already been widely ratified in all regions. In many countries it has triggered successful social dialogue on a range of matters beyond those set out in the Convention.

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Convention No. 144 — the essentials

- The meaning of representative organizations of employers and workers.
 - Procedures to ensure effective consultations, to be determined in accordance with national practice.
 - Participation of representatives of employers' and workers' organizations on an equal footing.
 - Administrative support and training for participants.
 - Matters to be covered by the consultations – international labour standards.
 - Report on the working of the procedures.
- 

What Convention No. 144 means

Consultation on what?

Five specific ILO matters

The Convention sets out five matters on which consultations should take place. These correspond to each stage of the ILO's standards-related activities. The five matters are —

- 1. Items on the ILO Conference agenda.** These include governments' replies to questionnaires on agenda items and their comments on draft texts. The final content of the replies and comments remains the Government's responsibility.
- 2. Submission to the national authorities of newly adopted ILO Conventions and Recommendations so that they be considered for ratification or implementation.** This is required under the ILO Constitution and is to be undertaken in consultation with employers' and workers' organizations.
- 3. Re-examination of unratified Conventions and Recommendations** to promote their ratification and application. This re-examination is to take place at "appropriate intervals", which is determined by national practice. It provides an opportunity to assess whether developments may have improved prospects for ratification and application.
- 4. Reports to the ILO on ratified Conventions.** Upon ratification of a Convention, member States must report on its implementation in law and in practice on a regular basis. Employers' and workers' organizations should be consulted before each report on ratified Conventions is finalized and forwarded to the ILO.
- 5. Proposals for the denunciation of ratified Conventions.** Should denunciation of a ratified Convention be considered (in order to put an end to a member State's obligations under the Convention), the Government should consult the representative organizations of workers and employers before reaching a final decision.

Other possible issues for consultations

While Convention No. 144 requires consultation on the five specific ILO-related matters, Recommendation No. 152 suggests other linked issues that could be the subject of consultations, such as —

- ILO technical cooperation activities;
- resolutions and conclusions of ILO Conferences and meetings;
- promotion of better knowledge of ILO activities.

What kind of tripartite consultation is needed?

Effective, meaningful consultation

The consultation required is aimed at helping the Government take decisions concerning specific ILO standards-related matters. Consultation means more than merely providing information, but does not require negotiations leading to an agreement. The key is to ensure that the voice of those concerned, namely workers' and employers' organizations, will be heard by the Government *before* decisions are taken.

With representative organizations

Representative organizations are independent employers' and workers' organizations that enjoy the right of freedom of association. Not only the largest organizations should be consulted, but all those representing a significant body of opinion concerning the particular issue under discussion. The Government's decision on which organizations to consult is to be taken in good faith. Those organizations then freely choose who will represent them in the consultations.

Represented equally

Employers' and workers' organizations are to be represented '*on an equal footing*'. This does not require equal numbers of representatives, but does require that the views of each side be given equal consideration.

The Government makes the final decision

The consultation procedure may set the objective of reaching a consensus, although this is not necessary. All voices are to be heard, but the Government makes the final decision if consensus is not reached. On the other side, the workers' and employers' organizations are not bound to support the final Government decision or position, and can communicate their views and comments directly to the ILO.

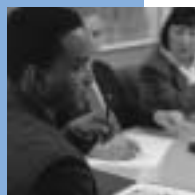
What consultation procedures are needed?

The choice is left to each country

The Convention leaves considerable room for governments to determine the most appropriate forms of consultation. This is, of course, to be done in consultation with the employers' and workers' organizations. It is not necessary to set up any particular institutional arrangement. Formal, informal, permanent or ad hoc procedures can be used. A combination of several procedures can also be used. Some options that can be considered are —

- a committee specifically constituted for questions concerning the activities of the ILO;
- a body with general competence in the economic, social or labour field;
- a number of bodies with responsibility for particular subject areas (for example maritime affairs, occupational safety and health, social security);
- written communications;
- ad hoc committees and meetings.

■ Consultations usually take place within an institutional framework. The most widespread form of institutional consultation procedure is within a body with specific competence in ILO matters. Some of these committees existed even before ratification of Convention No. 144, for example, in Denmark and Sweden. In other countries, special advisory committees were established about the time the Convention was ratified, as was the case in Egypt, Estonia, Malawi, the United States and Uruguay. International labour standards and ILO activities can also be discussed within an advisory body with general competence in the economic, social or labour field, such as in Lesotho and Namibia. Consultation also often takes place through written communications, such as in Mexico, New Zealand and Turkey. In practice, a combination of institutional procedures and written communications are used in most cases.



■ The Government of Trinidad and Tobago established a tripartite committee in 1996 whose title reflects Convention No. 144: The ILO 144 Tripartite Consultations Committee. Its members comprise individuals with expertise in economic, social and labour issues. Through its regular monthly meetings and subcommittee meetings, the Committee undertakes thorough technical examination of national law and practice in light of Conventions being considered for ratification. Examples include Conventions Nos. 138 and 182 on child labour. In its deliberations, the Committee consults with the relevant stakeholders in order to obtain their views on the ratification and implementation of Conventions. In the case of the Nursing Personnel Convention, 1977 (No. 149), the Committee met with nursing representatives of various institutions. The Committee also liaises with experts and resource persons relevant to its discussions.



How often must consultations take place?

At least once a year

Consultations are to take place at least once a year, but the actual interval should be agreed between the Government and the representative employers' and workers' organizations. They should occur often enough to ensure proper consideration of the matters to be discussed. Not all the matters set out in Convention No. 144 need to be addressed each year. For example, the need to re-examine unratified Conventions, or proposals for the denunciation of ratified Conventions will be less frequent. Government, employers' or workers' representatives can request the convening of consultation meetings.

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Consultation

TRIPARTITE

CONSULTATION

(INTERNATIONAL

LABOUR

STANDARDS)

Who is responsible for administrative support?

The Government should provide administrative support

The administrative support needed to implement the Convention includes arranging for meeting rooms, sending correspondence and making a secretariat available. In many countries, this support is provided by the ministry responsible for labour matters.

Should arrangements be made for training?

Where needed, training should be provided

Convention No. 144 does not set out a specific training requirement, but notes that appropriate arrangements are to be made between the Government and the representative organizations for financing any necessary training for participants in the consultation procedures.



■ In some countries, such as Mexico, Norway, Spain and the United States, specific training was not considered necessary since the representatives of employers and workers had broad experience with ILO matters. In other countries where training was considered necessary, such as in Australia, Austria, Iceland and Sweden, it was agreed that training for the participants in the consultations would be left to their respective organizations.

Does a report on the consultations need to be issued?

The Government consults and decides

The Government decides whether to issue a report on the working of the consultation procedures following consultation with the representative organizations on this matter. If the Government decides to issue a report, then it should be an annual report. Beyond that, there is no precise form of report that needs to be issued.

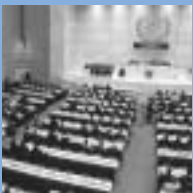
Why ratify and apply Convention No. 144?

Convention No. 144 —

- is not difficult to ratify due to its inherent flexibility;
- is already widely ratified in virtually all regions.

In addition, ratification and implementation of Convention No. 144 —

- result in more informed and representative decisions, since the views of those concerned are reflected;
- promote a culture of tripartism and social dialogue and can lead to greater trust and social dialogue on wider economic and social issues;
- result in better ownership of decisions, which could lead to improved implementation of those decisions;
- promote good governance;
- promote improved implementation of other Conventions and Recommendations;
- help in addressing issues of implementation of Conventions and principles, and can minimize the need to raise these issues before ILO supervisory bodies;
- demonstrate the Government's commitment to the basic values of the ILO.



■ Malawi ratified Convention No. 144 in 1986. Tripartite consultations and social dialogue generally have been positively influenced as a result. It has contributed to the ratification and better application of fundamental ILO Conventions in that country. The institutional framework that was set up contributed to wider social dialogue on social and economic issues at the national level by influencing the reorganization of the general tripartite machinery. Another positive outcome has been the promotion of gender equality within the work of the tripartite labour advisory body responsible for advising on ILO matters. According to the law that established this consultation mechanism, at least one woman is to be appointed to represent each of the tripartite constituents. Further evidence of how the social dialogue process can be enhanced by the establishment of tripartite consultation linked to the ratification of Convention No. 144 can be drawn from the experience of countries such as El Salvador, Indonesia, Philippines and Uruguay.

What are the potential advantages of ratification for employers' and workers' organizations?

- employers' and workers' organizations are better and more regularly informed about government views and proposals on ILO matters;
- governments are more aware of the views, needs and interests of employers' and workers' organizations, and thus are more likely to reflect them in decision-making, including on matters beyond those set out in the Convention;
- employers' and workers' organizations, through experience in the consultation process, are better able to communicate and advocate their members' views and to cooperate with the Government;
- public recognition of their democratic work;
- employers' and workers' organizations are more visible and influential, and thus more attractive to potential members. This in turn could increase their representativeness;
- employers' and workers' organizations have more influence in social policy at the national and international levels;
- they can influence and enrich ILO reports, particularly concerning collective agreements and practical application.

What can employers' and workers' organizations do to promote ratification?

- **Raise awareness:** organize meetings of officials and affiliates of the organization to discuss the potential benefits of ratification and coordinate promotional action.
- **Lobby:** write letters, distribute this booklet and organize meetings with government officials, parliamentarians, members of political parties, and officials of the Ministry of Labour proposing ratification and describing the likely benefits of ratification.
- **Involve the media:** inform and mobilize the media so that they get involved in the action for ratification. Through articles, interviews and other means, make the potential benefits of ratification more widely known.
- **Propose concrete consultations:** tripartite consultations, which demonstrate that employers' and workers' organizations are worth consulting, can prepare the ground for ratification of Convention No. 144.
- **Coordinate action:** where appropriate, organize joint action between employers' and workers' organizations.

Frequently asked questions

Is there a precise form of consultation required? Does a tripartite institution need to be set up?

The flexible wording of Convention No. 144 and Recommendation No. 152 basically leaves the choice of consultation procedures to the member States. It is not necessary to set up a permanent tripartite institution.

Does consultation imply negotiation?

Consultation is different from negotiation. Negotiation implies discussions between parties with differing or conflicting interests with a view to reaching an agreement. The consultations required by Convention No. 144 are not necessarily intended to lead to an agreement, but to help the Government in making an informed decision.

Are the consultation procedures permanently fixed?

No, the Government can change the procedures after consultation with the representative organizations. Any of the parties can suggest a change of procedure.

Does Convention No. 144 require consultation on social and economic policy issues?

Convention No. 144 deals with national tripartite consultation strictly on ILO standards-related activities, for example on the ratification and application of international labour standards.

Does the application of Convention No. 144 imply high financial cost?

It costs very little. The only cost to the Government is for administrative support for the procedures outlined in the Convention. While training, if needed, of participants in the consultations is foreseen, it is not automatically the responsibility of the Government to fund this training. Where consultations take place in an already existing structure, it is likely that no supplementary costs would be incurred.

Does application of Convention No. 144 imply a change in the national law?

Unless there are constitutional barriers or laws contrary to Convention No. 144 (which is unlikely), implementation does not require a Government to enact legislation. It can be implemented through customary law or practice as well as through the enactment of laws and regulations. For example, in Brazil, New Zealand, Portugal and Sri Lanka, the consultations required by Convention No. 144 take place without any specific provision in domestic law.

How can Convention No. 144 be used to promote gender equality?

The parties can ensure that the voices of both women and men are heard during the consultations. Representation of both women and men in the consultations could be promoted, and issues of particular concern to women or to men could be addressed through these consultations. The process could pay particular attention to the ratification and implementation of gender-related ILO standards. Where a new body is created or where one already exists, provision can be made for gender balance in the institution.

Freedom

Is ratification of the Freedom of Association and Right to Organise Convention, 1948 (No. 87) a prerequisite for ratifying Convention No. 144?

No, it is not a prerequisite, but effective tripartite consultation is only possible if workers' and employers' representatives enjoy freedom of association. For consultations to be meaningful, they must take place under conditions in which representative organizations can express their points of view in full freedom and independence. All member States, whether or not they have ratified Convention No. 87, are bound to respect the principle of freedom of association by virtue of ILO membership. This point was reconfirmed in 1998 through the adoption of the ILO Declaration on Fundamental Principles and Rights at Work.

Is it more difficult for a federal State to ratify?

Some federal States have ratified the Convention, for example Brazil, Germany, Switzerland and the United States. The required consultations take place at the federal level and, when necessary, also at the provincial level.

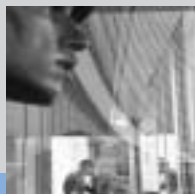
What is the reporting requirement?

The Governing Body of the ILO has classified Convention No. 144 as a priority Convention. Therefore the ratifying countries have an obligation to report every two years on the measures taken, in law and in practice, to apply it.

How the ILO can help

The ILO can help constituents interested in the ratification and application of Convention No. 144 in a number of ways. The ILO can —

- provide employers' and workers' organizations and governments with a better understanding of the substance of Convention No. 144 through promotional material, seminars and discussions;
- give technical support to government officials for the purpose of ratification of Convention No. 144;
- provide technical assistance in the establishment of the consultation mechanism;
- help the Government in meeting the reporting requirement under the ILO Constitution;
- assist the employers' and workers' organizations and government officials in the provision of training to allow them to participate fully in the tripartite consultation process;
- provide information and training on making tripartite mechanisms and processes more gender responsive;
- share with the member States the ILO's international experience on the implementation of this Convention.



■ To enable the people involved in the consultations to perform their functions effectively, in certain countries training has been provided for participants with the support of the ILO (for example in Estonia and Guinea). This usually takes place at the time of the establishment of the consultation procedures.

■ In Indonesia, the tripartite institutions had difficulties in triggering effective consultations on the subjects described in Convention No. 144 and Recommendation No. 152. However, significant changes took place in part through ad hoc tripartite mechanisms, assisted by ILO activities promoting tripartism. For example, the ILO sponsored seminars on labour law reform and fundamental ILO Conventions. These were followed by the setting up of an ad hoc tripartite drafting team to review the labour laws.

Sources of further information

International Labour Office publications

- ILO: *Tripartite consultation at the national level on economic and social policy*, Report VI, International Labour Conference, 83rd Session, Geneva, 1996.
- ILO: *Tripartite consultation: General Survey on the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) and the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152)*, Report III (1B), International Labour Conference, 88th Session, Geneva, 2000.
- ILO: *Report of the Committee on the Application of Standards*, International Labour Conference, 88th Session, Geneva, 2000, *Provisional Record No. 23*.
- ILOLEX CD-ROM. Database of ILO standards. Includes Conventions, Recommendations, reports of the Committee of Experts, reports of the Committee on Freedom of Association, General Surveys and related documents. Also available at the ILO web site (www.ilo.org).

Relevant ILO Conventions, Recommendations, resolutions and conclusions

- Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113).
- Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).
- Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152).
- Conclusions concerning tripartite consultation at the national level on economic and social policy, International Labour Conference, 1996.
- Resolution concerning tripartism and social dialogue, International Labour Conference, 2002.

Texts

OF CONVENTION No. 144
AND RECOMMENDATION No. 152



- CONVENTION No. 144: THE TEXT
TRIPARTITE CONSULTATION
(INTERNATIONAL LABOUR
STANDARDS)
CONVENTION, 1976

- RECOMMENDATION No. 152: THE TEXT
TRIPARTITE CONSULTATION
(ACTIVITIES OF
THE INTERNATIONAL
LABOUR ORGANISATION)
RECOMMENDATION, 1976

Convention No. 144

[...]

Article 1

In this Convention the term “representative organisations” means the most representative organisations of employers and workers enjoying the right of freedom of association.

Article 2

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to operate procedures which ensure effective consultations, with respect to the matters concerning the activities of the International Labour Organisation set out in Article 5, paragraph 1, below, between representatives of the government, of employers and of workers.

2. The nature and form of the procedures provided for in paragraph 1 of this Article shall be determined in each country in accordance with national practice, after consultation with the representative organisations, where such organisations exist and such procedures have not yet been established.

Article 3

1. The representatives of employers and workers for the purposes of the procedures provided for in this Convention shall be freely chosen by their representative organisations, where such organisations exist.

2. Employers and workers shall be represented on an equal footing on any bodies through which consultations are undertaken.

Article 4

1. The competent authority shall assume responsibility for the administrative support of the procedures provided for in this Convention.

2. Appropriate arrangements shall be made between the competent authority and the representative organisations, where such organisations exist, for the financing of any necessary training of participants in these procedures.

Article 5

1. The purpose of the procedures provided for in this Convention shall be consultations on —

- (a) government replies to questionnaires concerning items on the agenda of the International Labour Conference and government comments on proposed texts to be discussed by the Conference;
- (b) the proposals to be made to the competent authority or authorities in connection with the submission of Conventions and Recommendations pursuant to article 19 of the Constitution of the International Labour Organisation;
- (c) the re-examination at appropriate intervals of unratified Conventions and of Recommendations to which effect has not yet been given, to consider what measures might be taken to promote their implementation and ratification as appropriate;
- (d) questions arising out of reports to be made to the International Labour Office under article 22 of the Constitution of the International Labour Organisation;
- (e) proposals for the denunciation of ratified Conventions.

2. In order to ensure adequate consideration of the matters referred to in paragraph 1 of this Article, consultation shall be undertaken at appropriate intervals fixed by agreement, but at least once a year.

Article 6

When this is considered appropriate after consultation with the representative organisations, where such organisations exist, the competent authority shall issue an annual report on the working of the procedures provided for in this Convention.

[...]

Recommendation No. 152

[...]

1. In this Recommendation the term “representative organisations” means the most representative organisations of employers and workers enjoying the right of freedom of association.

2. (1) Each Member of the International Labour Organisation should operate procedures which ensure effective consultations with respect to matters concerning the activities of the International Labour Organisation, in accordance with Paragraphs 5 to 7 of this Recommendation, between representatives of the government, of employers and of workers.

(2) The nature and form of the procedures provided for in subparagraph (1) of this Paragraph should be determined in each country in accordance with national practice, after consultation with the representative organisations where such procedures have not yet been established.

(3) For instance, consultations may be undertaken —

- (a) through a committee specifically constituted for questions concerning the activities of the International Labour Organisation;
- (b) through a body with general competence in the economic, social or labour field;
- (c) through a number of bodies with special responsibility for particular subject areas; or
- (d) through written communications, where those involved in the consultative procedures are agreed that such communications are appropriate and sufficient.

3. (1) The representatives of employers and workers for the purposes of the procedures provided for in this Recommendation should be freely chosen by their representative organisations.

(2) Employers and workers should be represented on an equal footing on any bodies through which consultations are undertaken.

(3) Measures should be taken, in co-operation with the employers' and workers' organisations concerned, to make available appropriate training to enable participants in the procedures to perform their functions effectively.

4. The competent authority should assume responsibility for the administrative support and financing of the procedures provided for in this Recommendation, including the financing of training programmes where necessary.

5. The purpose of the procedures provided for in this Recommendation should be consultations —

- (a) on government replies to questionnaires concerning items on the agenda of the International Labour Conference and government comments on proposed texts to be discussed by the Conference;
- (b) on the proposals to be made to the competent authority or authorities in connection with the submission of Conventions and Recommendations pursuant to article 19 of the Constitution of the International Labour Organisation;
- (c) subject to national practice, on the preparation and implementation of legislative or other measures to give effect to international labour Conventions and Recommendations, in particular to ratified Conventions (including measures for the implementation of provisions concerning the consultation or collaboration of employers' and workers' representatives);
- (d) on the re-examination at appropriate intervals of unratified Conventions and of Recommendations to which effect has not yet been given, to consider what measures might be taken to promote their implementation and ratification as appropriate;
- (e) on questions arising out of reports to be made to the International Labour Office under articles 19 and 22 of the Constitution of the International Labour Organisation;
- (f) on proposals for the denunciation of ratified Conventions.

6. The competent authority, after consultation with the representative organisations, should determine the extent to which these procedures should be used for the purpose of consultations on other matters of mutual concern, such as —

- (a) the preparation, implementation and evaluation of technical co-operation activities in which the International Labour Organisation participates;
- (b) the action to be taken in respect of resolutions and other conclusions adopted by the International Labour Conference, regional conferences, industrial committees and other meetings convened by the International Labour Organisation;
- (c) the promotion of a better knowledge of the activities of the International Labour Organisation as an element for use in economic and social policies and programmes.

7. In order to ensure adequate consideration of the matters referred to in the preceding Paragraphs, consultations should be undertaken at appropriate intervals fixed by agreement, but at least once a year.

8. Measures appropriate to national conditions and practice should be taken to ensure co-ordination between the procedures provided for in this Recommendation and the activities of national bodies dealing with analogous questions.

9. When this is considered appropriate after consultation with the representative organisations, the competent authority should issue an annual report on the working of the procedures provided for in this Recommendation.

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**To find the nearest
local ILO office, consult:**

<http://www.ilo.org/public/english/depts/dir.htm>

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ISBN 92-2-113414-8