INTRODUCTION

Since its creation in 1919, the ILO has adopted 188 international labour conventions, five protocols to existing conventions, and 200 recommendations (collectively described as international labour standards or ‘ILS’), a total of almost 400 international labour instruments. The ILS are backed up by a supervisory system that is unique at the international level. This supervisory system helps to ensure that ILO Member States properly implement the conventions they ratify. The ILO regularly examines the application of standards in Members and points out areas where they could be better applied. If there are any problems in the application of standards, the ILO seeks to assist countries through social dialogue and technical assistance. The ILO has developed various means of monitoring the application of conventions and recommendations in national law and practice following their adoption by the ILC and, in the case of conventions, their ratification by States.

The 1919 Constitution of the International Labour Organisation, which created the Organization, not only gave it a mandate to adopt conventions and recommendations but also to monitor the application of ratified conventions. The rationale for this is contained in the Preamble to the Constitution which states that “... the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions...”

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2 See the discussion in Chapter 3 regarding the legal character of ILO conventions and recommendations.

3 In addition, the ILO has published numerous guidelines and/or codes to assist with national implementation of ILS on specific matters or areas, for example, HIV/AIDS and work, Using the ILO Code of Practice and Training Manual: Guidelines for Labour Judges and Magistrates (ILO: Geneva, 2005).

in their own countries”. Several provisions in the Constitution are thus devoted to what has come to be called ‘the supervisory system’. Articles 19, 22, 23

5 Ibid. See also discussion at p. 75. Article 19—Conventions and Recommendations, paragraph 5, “Obligations of Members in respect of Conventions”, which reads:

5. In the case of a Convention:
(a) the Convention will be communicated to all Members for ratification;
(b) each of the Members undertakes that it will, within the period of one year at most from the closing of the session of the Conference, or if it is impossible owing to exceptional circumstances to do so within the period of one year, then at the earliest practicable moment and in no case later than 18 months from the closing of the session of the Conference, bring the Convention before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action;
(c) Members shall inform the Director-General of the International Labour Office of the measures taken in accordance with this article to bring the Convention before the said competent authority or authorities, with particulars of the authority or authorities regarded as competent, and of the action taken by them; ...

and paragraph 6, “Obligations of Members in respect of Recommendations”, which reads:

6. In the case of a Recommendation:
(a) the Recommendation will be communicated to all Members for their consideration with a view to effect being given to it by national legislation or otherwise;
(b) each of the Members undertakes that it will, within a period of one year at most from the closing of the session of the Conference or if it is impossible owing to exceptional circumstances to do so within the period of one year, then at the earliest practicable moment and in no case later than 18 months after the closing of the Conference, bring the Recommendation before the authority or authorities within whose competence the matter lies for the enactment of legislation or other action;
(c) the Members shall inform the Director-General of the International Labour Office of the measures taken in accordance with this article to bring the Recommendation before the said competent authority or authorities with particulars of the authority or authorities regarded as competent, and of the action taken by them; ...

and paragraph 8, “Effect of Conventions and Recommendations on more favourable existing provisions”, which reads:

8. In no case shall the adoption of any Convention or Recommendation by the Conference, or the ratification of any Convention by any Member, be deemed to affect any law, award, custom or agreement which ensures more favourable conditions to the workers concerned than those provided for in the Convention or Recommendation.

6 Ibid., Article 22, which reads:

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 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.

7 Ibid., Article 23, which reads:

1. The Director-General shall lay before the next meeting of the Conference a summary of the information and reports communicated to him by Members in pursuance of articles 19 and 22.