

COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW

Kenya - 2021

FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING

REPORTING

Fulfilment of Government's reporting obligations

87-98 Fulfilment of Government's reporting obligations

Yes

Involvement of Employers' and Workers' organizations in the reporting process

91. When preparing its report, did the Government consult? [10.1]

c) The competent authorities?

94. Please describe the consultation process(es). [10.2]

Through the National Labour Board

OBSERVATIONS BY THE SOCIAL PARTNERS

Employers' organizations

95. Did employers organizations comment on the report? [11a]

No

Workers' organizations

96. Did workers organizations comment on the report? [11b]

No

EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT

Ratification

Ratification status

87-98 Ratification status

C. 87 not ratified
C 98 ratified

Ratification intention

6. What are the prospects for ratification of Convention No. 87?

Likely

8. What, if any, are the impediments to the ratification of Convention No. 87 and/or Convention No. 98?

The Freedom of Association is guaranteed in the Constitution hence there is no legal impediments to ratification of Convention No. 87. However, the internal mechanisms on ratification have not all been undertaken. The tripartite National Labour Board is set to discuss ratifications of relevant protocols including Convention No. 87.

Recognition of the principle and right (prospect(s), means of action, basic legal provisions)

Constitution

9. Have there been changes in law and practice in your country as regards freedom of association and the effective recognition of the right to collective bargaining?

No

Policy-Legislation and/or Regulations

9. Have there been changes in law and practice in your country as regards freedom of association and the effective

No

recognition of the right to collective bargaining?	
Judicial decisions	
9. Have there been changes in law and practice in your country as regards freedom of association and the effective recognition of the right to collective bargaining?	No
Exercise of the principle and right	
Special attention to particular situations	
14. Has particular attention been paid to specific groups of population, workers or sectors of activity in the efforts to promote freedom of association and the effective recognition of the right to collective bargaining?	No
Information/ Data collection and dissemination	
12. If yes, please specify:	b) Information/data compilation,c) Training,d) Awareness-raising
Monitoring, enforcement and sanctions mechanisms	
9. Have there been changes in law and practice in your country as regards freedom of association and the effective recognition of the right to collective bargaining?	No
Involvement of the social partners	
12.1. Please specify and indicate the involvement of social partners.	Social Partners are involved in all tripartite institutions meeting namely National Labour Board, Wages Councils and other committee meetings. Social partners are also involved in either joint

	programmes with the government officials or specific training programmes for the constituents.
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Promotional activities /Special initiatives /Progress

13. Have any initiatives resulted in successful examples or good practice in promoting freedom of association and the effective recognition of the right to collective bargaining?	Yes
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13.1. Please Specify	The number of registered Trade Unions has significantly increased as more workers become aware of their rights to associate.
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CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT

According to the social partners

16.d.	Covid 19 has posed a challenge in most economies and Kenya has not been spared as job losses have become prevalent and collective bargaining even suspended in some cases.
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16.g.	Most of the jobs created are in the informal economy, which can be precarious because the method of payment is based on production and they are usually family or individual businesses. Current jobs being created are in the GIG economy which is difficult to organize.
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16.h.	The government has recruited more than 100 in 2021 Labour Administrators who are not trained in Labour Administration and are likely to face challenges and difficulties in respect, promotion and realization of freedom of association and
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	the effective recognition of the right to collective bargaining
TECHNICAL COOPERATION	
Request	
17. What are the technical cooperation needs in your country to promote freedom of association and the effective recognition of the right to collective bargaining?	e) Legal reform (labour law and other relevant legislation), f) Capacity building of responsible government institutions, j) Strengthening tripartite social dialogue
17.f.	Government institutions are expected to be in the fore in the promotion of the freedom of association and the effective recognition of the right to collective bargaining, however as stated in No.16 the government has recruited new Labour Administrators that need training in Labour administration.
17.j.	There is need to strengthen and build capacity of various tripartite social dialogue institutions namely the National Labour Board and Wages Councils which all have new members who may not be conversant with the provisions of the Conventions.