

INTERNATIONAL LABOUR OFFICE

REPORTS ON
UNRATIFIED CONVENTIONS
AND RECOMMENDATIONS

*(article 19 of the Constitution
of the International Labour Organization)*

REPORT FORM FOR THE GENERAL SURVEY CONCERNING
SOCIAL SECURITY INSTRUMENTS¹ IN LIGHT OF THE 2008 ILO DECLARATION
ON SOCIAL JUSTICE FOR A FAIR GLOBALIZATION²

GENEVA 2009

¹ Social Security (Minimum Standards) Convention, 1952 (No. 102); Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168); Income Security Recommendation, 1944 (No. 67); Medical Care Recommendation, 1944 (No. 69).

² ILO Declaration on Social Justice for a Fair Globalization adopted by the International Labour Conference at its Ninety-seventh Session, Geneva, 10 June 2008.

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Article 19 of the Constitution of the International Labour Organization relates to the adoption of Conventions and Recommendations by the Conference, as well as to the obligations resulting therefrom for the Members of the Organization. The relevant provisions of paragraphs 5, 6 and 7 of this article read as follows:

5. In the case of a Convention:

...

- (e) if the Member does not obtain the consent of the authority or authorities within whose competence the matter lies, no further obligation shall rest upon the Member except that it shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of its law and practice in regard to the matters dealt with in the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement or otherwise and stating the difficulties which prevent or delay the ratification of such Convention.

...

6. In the case of a Recommendation:

...

- (d) apart from bringing the Recommendation before the said competent authority or authorities, no further obligation shall rest upon the Members, except that they shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice in their country in regard to the matters dealt with in the Recommendation, showing the extent to which effect has been given, or is proposed to be given, to the provisions of the Recommendation and such modifications of these provisions as it has been found or may be found necessary to make in adopting or applying them.

7. In the case of a federal State, the following provisions shall apply:

- (a) in respect of Conventions and Recommendations which the federal Government regards as appropriate under its constitutional system for federal action, the obligations of the federal State shall be the same as those of Members which are not federal States;
- (b) in respect of Conventions and Recommendations which the federal Government regards as appropriate under its constitutional system, in whole or in part, for action by the constituent states, provinces or cantons rather than for federal action, the federal Government shall:

...

- (iv) in respect of each such Convention which it has not ratified, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states, provinces or cantons in regard to the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement, or otherwise;
- (v) in respect of each such Recommendation, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states, provinces or cantons in regard to the Recommendation, showing the extent to which effect has been given, or is proposed to be given, to the provisions of the Recommendation and such modifications of these provisions as have been found or may be found necessary in adopting or applying them.

...

In accordance with the above provisions, the Governing Body of the International Labour Office examined and approved the present report form³. This has been drawn up in such a manner as to facilitate the supply of the required information on uniform lines.

³ Please see GB. 304/9/2 (March 2009) – Paragraphs 52 - 73.

REPORT

to be made no later than 28 February 2010, in accordance with article 19 of the Constitution of the International Labour Organization by the Government of, on the position of national law and practice in regard to matters dealt with in the instruments referred to in the following questionnaire.

Article 19 questionnaire on social security

Social Security (Minimum Standards) Convention, 1952 (No. 102); Employment Promotion and the Protection against Unemployment Convention, 1988 (No. 168); Income Security Recommendation, 1944 (No. 67); Medical Care Recommendation, 1944 (No. 69)

The following questions cover the nine social risks/contingencies listed in Convention No. 102: medical care, sickness, unemployment, old age, accidents at work and occupational diseases, family benefits, maternity, invalidity and survivors' benefits.	Please give, as appropriate, a general appreciation or a <i>detailed reply</i> with respect to the main social security or social assistance scheme in your country.	Please give a precise reference (web links) to provisions of the <i>relevant legislation</i> .
Part I. Strengthening the legal framework, finances and coverage of social security		
A. Constitutional and legal guarantees		
1. Does the Constitution of your country define a right to social security/protection and, if so, how?	(Including social assistance, access to health care, support of families and children, etc.)	(Including judicial decisions involving questions of principle.)
2. How does the social security legislation in your country:		C102 Arts 7, 13, 19, 25, 31, 39, 46, 53, 59
2.1. Define social risks/contingencies listed in Convention No. 102, including preventive, curative and maternity medical care?	(Or any other risk/contingency such as poverty, dependency, paternity, long-term care, etc.)	C102 Arts 14, 20, 26, 32, 40, 47, 54, 60 and Arts 7, 8, 10, 34, 49; C168 Art. 10; R67 §§ 2, 5–16, 19, Annex §§ 1–16; R69 §§ 1–4, 19–23
2.2. Guarantee minimum income-support benefits, if any, and basic medical care?		C102 Arts 7, 13, 19, 25, 31, 39, 46, 53, 59 and Arts 66 or 67; C168 Art. 15(1b); R67 §§ 1–4, 28–30, Annex §§ 28–30; R69 §§ 5–10, 19–23

2.3. Determine how medical care service is organized and financed?	(For example, public service, health insurance, social assistance, out-of-pocket payments, etc.)	C102 Part II and Part XIII, Arts 71, 72; R69 Parts I, III, V
2.4. Establish the right of complaint and appeal in social security and make the procedures simple and rapid?		C102 Art. 70; C168 Art. 27; R67, Annex §27(3, 4, 7–10); R69 §§ 112–114
3. What measures are taken to ensure enforcement of social security legislation and full collection of social insurance contributions?	(For example, sanctions, labour inspection, anti-fraud measures, etc.)	C102 Art. 69; C168 Arts 20, 21, 30; R67 §§ 17–21, 25, Annex §§ 17–19; R69 §§ 80–83
B. Financial sustainability and governance of social security		
4. Are social security finances in your country sufficient to ensure that:	(Please include appropriate statistics and extracts from performance reports of the benefit schemes.)	
4.1. Benefits paid by the main scheme are high enough to ensure sufficient replacement of previous wages and/or to provide income above the poverty line?		C102 Arts 16, 22, 28, 36, 50, 56, 62 and Art. 65; C168 Art. 15(1); R67 §§ 1–4, 22–24, Annex §§ 22–24, 28–30
4.2. Benefits are adjusted to inflation to maintain purchasing power and/or to growth in wages to improve the standard of living?		C102 Arts 65(10), 66(8); R67 § 24(11)
4.3. Measures are taken to avoid hardship and ensure coverage of persons of small means?	(For example, state subsidies, contribution or tax reductions, etc.)	C102 Art. 71(1); C168 Art. 16; R67 §§ 3, 4, 26, Annex § 26(1–3, 9); R69 §§ 5, 6, 11–14, 75–79, 89
5. Please explain the role of the State and indicate whether it assumes the <i>general</i> responsibility and takes all measures necessary to ensure:		C102 Arts 71, 72; R67 § 27, Annex § 27(1–4)
5.1. The financial viability of the system, protection of social security funds, regular actuarial and financial studies and due provision of benefits.	(For example, establishment of the central reserve fund, yearly budgets/performance reports, etc.)	C102 Art. 71; R69 Part V

5.2. The proper administration and supervision of the social security institutions and services, including voluntary and private schemes.		C102 Art. 72; C168 Art. 28; R67 § 27, Annex § 27(1, 2, 5); R69 §§ 92–111
6. In the light of the global financial and economic crisis, what are the main challenges for the future financial sustainability of the social security system and how does it contribute to cope with the consequences of the crisis?		
C. Extension of social security coverage		
7. Please provide the latest available statistics on the total number of persons protected under the main scheme.	(Including the number of active contributors and benefit recipients.)	C102 Arts 5, 9, 15, 21, 27, 33, 41, 48, 55, 61; C168 Art. 11; R67 §§ 17, 20, 21, Annex 1B; R69 §§ 8–10
8. What measures have been taken or planned to extend social security coverage to unprotected categories of workers and their families in different sectors of the economy, including in the informal economy, agriculture, fishing or other sectors?	(For example, self-employed, temporary workers, workers lacking an employment relationship.)	C102 Arts 5, 9, 15, 21, 27, 33, 41, 48, 55, 61; C168 Art. 23, 24; R67 §§ 17, 20, 21, Annex 1B; R69 §§ 8–18
9. Does your country consider the establishment of a set of basic guarantees for income security and access to medical care for all and, if so, for what risks/contingencies?	(For example, essential health care, income security during childhood, old-age, invalidity, survivors' benefits, social assistance to unemployed.)	R67 Preamble, §§ 5–7, 28–30; R68 Preamble, §§ 8–10
Part II. Integrating social security into a comprehensive strategy for decent work		
D. Social security and fundamental principles and rights at work		
10. How are, or should, fundamental principles and rights at work be promoted in social security, in particular by way of:		

10.1. Enabling workers and employers to set up provident, unemployment, supplementary, etc. schemes (funds) and regulate benefits by means of collective agreements?	(Please specify management arrangements for such schemes.)	
10.2. Applying to social security the basic principles of equality of treatment and non-discrimination?	(Including promotion of gender equality.)	C102 Art. 68; C168 Art. 6
10.3. Providing universal or targeted (means-tested) benefits to families with children under school-leaving age with a view, inter alia, to preventing child labour?	(Including benefits in kind listed in Article 42 of Convention No. 102.)	C102 Part VII; R67 § 28, Annex § 28
E. Social security and employment policy		
11. To what extent social security benefits are, or should be, coordinated with employment policy and used as a means to increase employability and promote employment, in particular by way of:		C168 Arts 2, 3, 7, 8, 9, 14
11.1. Professional rehabilitation and cash benefits for vocational training, retraining, and occupational and geographic mobility?		C102, Art. 35; C168 Arts 7, 8, 9
11.2. Public works/employment guarantees schemes or additional assistance for long-term unemployed?		C168 Arts 16, 18(3), 19(2, 6)
11.3. Social benefits (in cash or in kind) and services for prescribed categories of new applicants for employment?	(For example, young persons after studies, military service, released prisoners, previously self-employed persons, etc. listed in Article 26 of Convention No. 168.)	C168 Art. 26
11.4. Adjusting social security schemes to occupational and family circumstances of specific categories of workers?	(For example, self-employed, seasonal workers, part-time workers, homeworkers, workers with family responsibilities, etc.)	C102 Art. 24(4); C168 Arts 10(3), 17(2), 19(6), 25
F. Social security and social dialogue		
12. Please describe the role of workers' and employers' organizations, social dialogue and tripartism in the management of social security, indicating in particular:		C168, Art. 3; R67 § 27, Annex § 27(5, 6)

12.1. What organizations represent persons protected by social security schemes and how do they participate (together with representatives of the employers and public authorities) in the administration of these schemes?	(For example, trade unions, associations of retired persons, disabled persons, etc.)	C102 Art. 72(1); C168 Arts 27(2), 29; R67 § 27, Annex § 27(5, 6)
12.2. Whether tripartite consultations at the national level concerning reform and future development of social security have been held or should be held in your country?		
Part III. Impact of ILO instruments		
13. What are the obstacles that impede or delay ratification and what are ratification prospects for Conventions Nos 102 and 168? If your country has not accepted all parts of Convention No. 102, what are the obstacles that prevent the acceptance of the remaining parts?	(Including obstacles to the acceptance of the obligations in respect of any of the nine social security benefits covered by Convention No. 102.)	
14. To what extent has effect been given, or is proposed to be given, to Convention No. 102 (or non-accepted Parts of Convention No. 102), and Convention No. 168, if not ratified, and to Recommendations Nos. 67 and 69?		
15. What suggestions would your country wish to make concerning possible standard-related action to be taken by the ILO?	(For example, new standards, revision, consolidation, review of the status of the instruments, etc.)	
16. Has there been any request for policy support or technical cooperation support provided by the ILO to give effect to the instruments in question? If this is the case, what has been the effect of this support?		

<p>17. What are the future policy advisory support and technical cooperation needs of your country to give effect to the objectives of the instruments in question?</p>	<p>(For example, promotion of social dialogue in social security, gender audit of social security legislation, a feasibility study for the introduction of a basic social security package, etc.)</p>
<p>18. Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the ILO.</p>	
<p>19. Please state whether you have received from the organizations of employers and workers concerned any observations concerning the effect given, or to be given, to the instruments to which the present report relates. If so, please communicate a copy of the observations received together with any comments that you may consider useful.</p>	