



▶ **Withdrawal of one international labour Convention**

International Labour Conference
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Report VII B(2)

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Seventh item on the agenda

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► Introduction

At its 337th Session (October–November 2019), the Governing Body of the International Labour Office decided to place on the agenda of the 110th Session (2021) of the International Labour Conference the question of the withdrawal of one Convention: the Fee-Charging Employment Agencies Convention, 1933 (No. 34).¹

The decision of the Governing Body was based on the recommendations made by the Standards Review Mechanism Tripartite Working Group at its fifth meeting, which was held from 23 to 27 September 2019. This will be the second time that the Conference will be called upon to decide on the possible withdrawal of an international labour Convention that is no longer in force because the number of its effective ratifications has fallen to one.

Owing to the COVID-19 pandemic, the Governing Body decided to defer the 109th Session of the Conference from June 2020 to June 2021. In the light of this deferral, the Governing Body approved some adjustments to the agenda of that session. In that respect, it decided that the Conference would consider the withdrawal of Convention No. 34 under the seventh item of the agenda of the 109th Session (2021), in addition to the abrogation of eight international labour Conventions and the withdrawal of nine other international labour Conventions and 11 international labour Recommendations, the consideration of which had already been placed on the agenda of the 109th Session.²

Should the Conference decide to withdraw Convention No. 34, it would be removed from the ILO's body of standards and would no longer be reproduced in the official compendium of ILO Conventions and Recommendations. All that would remain would be its full title and number; there would also be a reference to the session of the Conference at which the decision of withdrawal was taken, and to the year of that session.

Under article 45 *bis*(2) of the Standing Orders of the International Labour Conference, when an item on the withdrawal of a Convention is placed on the agenda of the Conference, the Office must communicate to the governments of all Member States not later than 18 months before the opening of the session of the Conference at which the item is to be discussed, a short report and questionnaire requesting them to indicate within a period of 12 months their position on the subject of the said withdrawal. Accordingly, Report VII B(1) was sent to Member States, who were invited to communicate their replies to the Office by 30 November 2020. The report recalled the procedure as well as the relevant decisions of the Conference and the Governing Body, and summarized the reasons put forward by the Governing Body in proposing that Convention No. 34 be withdrawn.³

At the time that the present report (Report VII B(2)) was drawn up, the Office had received replies from the governments of the following 41 Member States: Algeria, Austria, Azerbaijan, Bahrain, Belgium, Bosnia and Herzegovina, Bulgaria, Cambodia, Canada, Costa Rica, Croatia, Egypt, Ethiopia, Finland, Germany, Guatemala, Iceland, Italy, Japan, Latvia, Mauritius, Mexico, Morocco, Myanmar, New Zealand, Oman, Pakistan, Poland, Portugal, Spain, Suriname, Sweden,

¹ ILO, *Agenda of Future Sessions of the International Labour Conference*, GB.337/INS/2(Add.1), 2019, para. 9(b).

² ILO, *Minutes of the meetings of the Screening Group held in preparation of decisions made by correspondence by the Governing Body between March and October 2020*, Minutes (Rev.5), 2020, para. 408.

³ ILO, *Withdrawal of one international labour Convention*, Report VII B(1), ILC.109/VII/B(1), 2021.

Switzerland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uruguay and Uzbekistan.

In the questionnaire, the Office drew the attention of governments to the requirement in article 45 *bis*(2) of the Standing Orders of the Conference that Member States consult the most representative organizations of employers and workers before finalizing their replies.

The governments of the following 31 Member States confirmed that employers' and workers' organizations had been consulted or involved in the preparation of the replies: Austria, Belgium, Bulgaria, Canada, Costa Rica, Croatia, Ethiopia, Finland, Germany, Guatemala, Iceland, Japan, Latvia, Mauritius, Mexico, Morocco, Myanmar, New Zealand, Oman, Pakistan, Poland, Portugal, Spain, Suriname, Sweden, Switzerland, Thailand, Trinidad and Tobago, Turkey, Uruguay and Uzbekistan. In addition, the governments of the following three Member States indicated that they had endeavoured to consult or involve employers' and workers' organizations, but at the time of submitting their replies they had not yet received input from all social partners: Bulgaria, Guatemala and Uruguay.

In the case of one Member State, Mauritius, the comments of a workers' confederation were communicated directly to the Office.

► Summary of replies received and commentaries

This section presents the two questions set out in the questionnaire together with the number of affirmative, negative and other replies, with the list of the governments that gave them. It also presents summaries of the explanations accompanying the governments' replies and the observations of employers' and workers' organizations, and a brief Office commentary.

The questions were:

Do you consider that Convention No. 34 should be withdrawn? and

If you replied "no" to the question above, please indicate the reasons why you consider that Convention No. 34 has not lost its purpose or still makes a useful contribution to attaining the objectives of the Organization.

Total number of replies: 41.

Affirmative: 40. Algeria, Austria, Azerbaijan, Bahrain, Belgium, Bulgaria, Cambodia, Canada, Costa Rica, Croatia, Egypt, Ethiopia, Finland, Germany, Guatemala, Iceland, Italy, Japan, Latvia, Mauritius, Mexico, Morocco, Myanmar, New Zealand, Oman, Pakistan, Poland, Portugal, Spain, Suriname, Sweden, Switzerland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uruguay and Uzbekistan.

Negative: None.

Other: 1. Bosnia and Herzegovina.

Comments

Bosnia and Herzegovina. The Government indicates that it takes a neutral position on the withdrawal as it is not a party to the Convention. It recalls that it is a party to the Private Employment Agencies Convention, 1997 (No. 181).

Mauritius. The Confederation of Public and Private Sector Workers (CTSP) is not in favour of the withdrawal of the Convention. Without any regulatory framework, employment agencies will have a greater influence in the labour market and may increase their fees, especially in a context where there is an alarming increase in the number of climate refugees and in precarious work in different parts of the world. Convention No. 34 should be further promoted in the face of current challenges.

Portugal. The General Union of Workers (UGT), while not opposing the withdrawal, considers that the ILO should offer assistance to Chile – the only country which is still bound by the Convention – to address the implications of the withdrawal of the Convention and encourage the ratification of Convention No. 181.

Office commentary

With the exception of one government, which refrained from taking a position, all respondents expressed unanimous support for the withdrawal of Convention No. 34. It should be recalled that, in 1996, the Governing Body shelved Convention No. 34 with immediate effect, considering that it no longer corresponded to current needs and had become obsolete. By 2007, Convention No. 34 had been denounced by ten Member States and presently has only one ratification.

► Proposed conclusion

Pursuant to article 45 *bis*(3) of the Standing Orders of the Conference, this report is presented to the Conference for consideration. The Conference is also invited to consider and to adopt the following proposal:

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 109th Session from 7 to 18 June 2021, and

Following consideration of the proposal for the withdrawal of one international labour Convention,

decides this ... day of June of the year two thousand and twenty-one to withdraw the Fee-Charging Employment Agencies Convention, 1933 (No. 34).

The Director-General of the International Labour Office shall notify all Members of the International Labour Organization, as well as the Secretary-General of the United Nations, of this decision to withdraw the instrument.

The English and French versions of the text of this decision are equally authoritative.