

Committee on the Application of Standards

Date: 16 May 2022

Governments appearing on the preliminary list of individual cases have the opportunity, if they so wish, to supply on a purely voluntary basis, written information before 16 May 2022.

▶ Information on the application of ratified Conventions supplied by governments on the preliminary list of individual cases

Iraq

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1962)

The Government has provided the following written information following the meeting of the Tripartite Advisory Commission held on Monday, 10 May 2022.

The Committee requests the Government to indicate in what manner it ensures that effect is given to the Convention with respect to public officials.

A preliminary draft of an Act on union organization was prepared and considered by the Council of State. The Council returned the draft for discussion by the relevant parties and there was liaison with the International Labour Organization over preparation of a preliminary version of the draft so that it might come into line with the relevant international Conventions and thus be invigorated and returned to legislative force. Under the oversight of the International Labour Organization, the Ministry held a workshop concerning the Act attended by all the representatives of the labour unions in Iraq for the purpose of arriving at a definitive version of the preliminary draft of the Act and of seeing that it achieves its proper function in law.

The Government requests the Organization to provide technical assistance in preparing the Act and in trade union capacity-building and promoting the activation of the Conventions relating to union freedom.

The Committee therefore requests the Government to take the necessary measures to ensure that the sanctions actually imposed in cases of anti-union discrimination are sufficiently dissuasive. In this regard, the Committee requests the Government to provide information on the sanctions imposed in practice.

The sanctions that are imposed in practice match those penalties stipulated in the Labour Code, and which include those mentioned in section 11(ii); no scope is given for deviation from

the provisions of the Labour Code. In light of the existing amendment to the Labour Code (which is under discussion), the matter of sanctions will be discussed with the social partners.

The Committee requests the Government to specify which remedies may be imposed by the Labour Court in such cases, indicating in particular whether the Court is empowered to reinstate the dismissed workers in their positions.

The Labour Code gives workers the right to appeal a severance decision before the severance committee formed pursuant to Instructions No. 4 of 2017.

They may also appeal the severance decision in court within 30 days of being informed of the termination of their service, as per the provisions of section 46(i) of the Labour Code.

A worker is deemed to have waived his right to appeal if he does not submit it within this period. In choosing one of these remedies he forfeits his right to the other one.

The severance committee's decision may be appealed against in the labour court within 30 days of the worker being informed of the decision.

If the committee or the court finds that the termination of the worker's service is contrary to the conditions for terminating the labour contract as specified in section 43 of the Labour Code, they may order the reinstatement of the worker or the restitution of all wages owed to him since the termination of the work contract.

The Committee requests the Government to provide information regarding the length of the procedure to treat complaints against acts of anti-union discrimination and its application in practice.

The length of the period for the treatment of a complaint lodged by a worker concerning labour disputes over existing rights is in accordance with the application of the provisions of the Labour Code, which is within 30 days of the complaint being submitted as per section 157(iv).

If the complaint concerns a collective dispute over future interests, the length of the period specified for resolution of the dispute is up to 48 hours from the date on which the request for this is received, during which an appointment to hear the dispute must be fixed.

The length of the period for settling the dispute is seven days from the expiry of the 48-hour period as per the provisions of section 161(iii) and (iv) concerning the settling of disputes

In all the above situations, cases involving labour issues are deemed to be urgent actions, as per section 166(iii).

Three hotlines have also been opened for receiving workers' complaints and forwarding them to the labour inspectorate, which deals with them as a matter of urgency and works to resolve any problem amicably before having recourse to the competent courts. The hotlines have proved to be successful in this regard.

The Committee requests the Government to indicate whether other laws or regulations explicitly prohibit acts of interference and provide for rapid procedures and sufficiently decisive sanctions against such acts, including sanctions pertaining to the establishment of workers' or employers' organizations and to adequate protection against any acts of interference.

Section 22(iii) of the 2005 Constitution of the Republic of Iraq states: “The State shall guarantee the right to form and join unions and professional associations and this shall be regulated by law.”

It is also stated in the provisions of section 42(i)(k) of the Labour Code that the range of rights afforded to workers includes “freedom to create and join trade unions”.

With regard to information concerning the measures taken or envisaged to promote collective bargaining, the number of collective agreements concluded and in force in the country, as well as the sectors concerned and the number of workers covered by these agreements: there is a specific part of the Labour Code (that is Chapter 15) regulating everything pertaining to collective agreements and bargaining. This Chapter defines all the measures for concluding collective work agreements or entering into collective bargaining free from interference by any party (see sections 146–156 of the Code), although it should be noted that to date, no collective agreements have been concluded or are in force in the State.

Recommendations: Iraq is in urgent need of trade union capacity-building and of promoting the activation of the Conventions relating to union freedom.