

PROTECTION OF RIGHTS SPECIFIC TO WORK REPORTS BY MEANS OF THE INTERNATIONAL LABOUR ORGANIZATION

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ABSTRACT:

THE INTERNATIONAL LABOUR ORGANIZATION IS AN AUTONOMOUS ORGANIZATION, WHICH CAMPAIGNS TO PROTECT THE RIGHTS OF PERSONS WORKING. ILO AFFIRMS THE RIGHTS OF ALL PEOPLE, IRRELEVANT OF THE RACE, FAITH OR SEX, TO FOLLOW THEIR MATERIAL PROGRESS AND SPIRITUAL DEVELOPMENT IN THE LIGHT OF LIBERTY AND DIGNITY, IN ECONOMIC SECURITY AND EQUAL CHANCES, AS ANY INTERNATIONAL OR NATIONAL POLICY MUST BE ORIENTED TO THE ACHIEVEMENT OF THESE AIMS. THE TRIPARTITE STRUCTURE OF THE INTERNATIONAL LABOUR ORGANIZATION GIVES AN EQUAL VOICE TO ALL EMPLOYERS, WORKERS AND GOVERNMENTS TO ENSURE THAT THE VIEWS OF THE SOCIAL PARTNERS ARE CLOSELY REFLECTED IN SHAPING POLICIES AND PROGRAMMES AND IN LABOUR STANDARDS.

KEY WORDS: INTERNATIONAL LABOUR ORGANIZATION, THE RIGHTS OF PERSONS WORKING, INTERNATIONAL NORMS, CONTROL PROCEDURES.

INTRODUCTION

The International Labour Organization was created as an autonomous organisation of the Society of Nations by the ILO Constitution, which was adopted on the 11th of April 1919, as part of the Peace Treaty from Versailles. The headquarters is in Geneva, and from the year 1946, it has become a specialised agency of the UNO³.

The main objective of the International Labour Organization⁴ is to establish international norms regarding the work relations and the surveillance of the effective application of the

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³ "Origins and history", International Labour Organisation, accessed February 10, 2017, <http://www.ilo.org/global/about-the-ilo/history/lang--en/index.htm>.

⁴ It was created as an autonomous organization associated to the Nations Society, on the date of 11th of April 1919.

conventions intervened between states, in this domain. For example, within the ILO hundreds of conventions and recommendations which regard issues of social justice in the labour domain have been adopted and elaborated⁵.

In the preamble of the ILO Constitution, it is demonstrated that there is a high number of persons for which the work conditions also imply injustice, misery and deprivation, thus invoking the necessity to improve these conditions, to regulate the labour duration, the remuneration, the protection of workers against sickness, work accidents, union freedom and affirming the right to professional and technical education.

By the Declaration of Philadelphia, which was adopted within the International Labour Conference from the 10th of May 1946, one refers to the aims and objectives of ILO, thus reaffirming the general principles of this organization: labour is not some type of merchandise; the liberty of expression and association is indispensable for a supported program; poverty, where it exists, constitutes a danger for everyone's property.

THE RIGHTS PROTECTED BY INTERNATIONAL LABOUR ORGANISATION

The rights for which the ILO militates to be protected are: the right to labour, the right to equitable and satisfactory conditions, the right to establish unions and to freely affiliate to a union, the right to choice, to social security, to a level of satisfactory life, as well as the civil and political rights, such as liberty of expression, liberty of association, liberty of peaceful reunion etc.

As to observe the objectives proposed, the ILO adopted norms and established procedures, also making recommendation to the state in this sense.

The monitoring of the appliance of the provisions belonging to the conventions adopted under the aegis of ILO by the state parties, referring to the human rights in the domain, is achieved by the system of *periodic reports*⁶, the analysis of the reports of the states being, ever since the year 1927, in the competence of an expert committee, formed of 20 members, denominated by the Administration Council of ILO.

Within the framework of ILO, the internal bodies of the international organization⁷ have the possibility of triggering a control on the observance of the states regarding their obligations related to the observance of the human rights, in the field of activity of this international organization.

When rights specific to labour relations stipulated in international conventions are breached, two control procedures can be exerted: if the complaints of a member state against another member state is referring to this type of breach, the Administration Council of IOM requests observations from the state reported and, in case these observations are considered unsatisfactory, the Council can denominate an *investigation committee* which will verify the reality of the matters disputed as to take the measures that are imposed; the second type of procedure permits the members of the employer's organization or trade unions to present communications (complaints) against any other member state which did not adequately observe one of the conventions to which it adhered, the ILO bodies is obligated to verify the reality of the situation in view of solving the respective complaints.

⁵ Nicolas Valticos, "The International Labour Organisation", *The International Dimensions of Human Rights* 1 (1982): 363 and the following.

⁶ The control by means of the state reports, which concern the observance of human rights in the activity domain of the International Labour Organization has both a conventional character, being stipulated by the international treaties, and an internal character, performed based on internal documents of the bodies of this international organization.

⁷ The control by means of internal complaints is a procedure with a conventional character.

ILO disposes of bodies charged with the permanent control of the appliance of the international norms in the domain, as well as in the bodies which fulfil, by means of contentious procedures, a quasi-judicial function⁸.

Together with the main bodies⁹, which embody general competences, within the framework of ILO there are also subsidiary bodies, specialised in the protection of human rights from its domain of activity and namely: *The Committee of experts on applying the conventions and recommendations; the Group of experts for the annual surveillance of the unratified fundamental conventions; the Committees for analysing complaints; the Committees of Investigation of complaints; the Committee of union freedom.*

The Committee of experts on applying the conventions and recommendations is formed from independent experts, denominated by the Administration Council, at the proposal of the general director. The later has the competence of monitoring the observance of the human rights inscribed in the ILO conventions which are ratified by the member states of the organization, as well as in the ILO recommendations and the procedure of ensuring the observance of the human rights is the control by means of the reports.

The group of experts for the annual surveillance of the unratified fundamental conventions is founded by the ILO Declaration relative to the fundamental principles and labour rights¹⁰, the experts being denominated by the Administration Council of ILO. The competence of the group of experts relates to the principles regarding the fundamental rights, stipulated in the ILO conventions, which are not yet ratified by each member state. The following are considered fundamental rights: *liberty of association and the effective acknowledgement of the right to collective negotiation; the elimination of any form of forced or compulsory labour; the effective abolition of the child labour; the effective elimination of discrimination related to employment and profession.* The procedural means stipulated for the fulfilment of the tasks of the Group of experts is controlled by means of the reports.

The Committees for the analysis of the complaints are constituted of three members who are designated by the Administration Council, from its own members, based on the principle of tripartism (governmental representatives of the economic organizations, representatives of the trade union representatives – as it principally in the ILO). The competence of the Committees relate to the non-observance of state, of the ILO conventions ratified, and their procedural means used for the control of the complaints formulated by the employee's organizations or union organization.

The investigation committee of the complaints are constituted of 3 members designated by the Council of Administration of ILO. These are competences to analyse the observance by the states of the ILO conventions to which they participate, and the procedure of fulfilling the attributions is that of control subsequent to complaints presented by the state parties at the respective conventions, by the delegations of the General Conference of Labour or the Council of Administration.

⁸ Regarding the special examination bodies of the reports, the Administration Council created two Committees: *The Committee for Appliance of Conventions and Recommendations*, as a body of the International Labour Conference and the *Committee of Experts as to Apply the Conventions and Recommendations of ILO*.

⁹ The Administration Council belonging to the ILO and the International labour Office.

¹⁰ It was adopted by the International Labour Conference at the 86th session at Geneva, on the date of the 19th June 1998.

The Committee of union freedom is composed of 9 members, on a tripartite base, created by the Administration Council. Its competence regards the human rights inscribed in the human rights for the two ILO conventions regarding the trade union freedom¹¹, for which the states ratified them, and the control mechanism is that by means of complaints and demands.

The investigation and conciliation committee regarding the matter of union freedom is composed of 9 members. It is also competent in the matter of the two ILO conventions regarding the union freedom, for the states which are an integral part and the control procedure of observing the human rights stipulated in the two conventions being that of the complaints and reclamations advised at the notification of the Committee of trade union freedom.

The states which are not satisfied with the measures disputed by the PIM can appeal to the International Court of Justice, the procedure being thus adopted by the jurisdictional nature¹².

CONCLUSIONS

The International Labour Organization is an international inter-governmental organization with a universal vocation, which represents an integral part of the system of specialised institutions of the UNO. It was created after the First World War, by means of the Peace Treaty of 1919, the present treaty of this organization being adopted by the International Labour Conference, at the 86th session, in Geneva, on the date of the 9th of June.

The protection of human rights within the International Labour Organization is ensured by its own mechanisms which are stipulated in the constitutive document of this organisation, as well as in the conventions and recommendations subsequently adopted, that develops and also completed it based on the practice.

¹¹ The two ILO conventions related to the liberty of association are: the ILO Convention no. 87 from 1948 regarding the union freedom and the protection of the trade union right; the ILO Convention no. 98 from 1949 regarding the right of organization and collective negotiation.

¹² Malcolm Shaw, *International Law, Fourth Edition* (Cambridge: Cambridge University Press, 1999), 219.

REFERENCES

1. International Labour Organisation. "Origins and history". Accessed February 10, 2017. <http://www.ilo.org/global/about-the-ilo/history/lang--en/index.htm>.
2. **Shaw, Malcolm.** *International Law, Fourth Edition*. Cambridge: Cambridge University Press, 1999.
3. **Valticos, Nicolas.** "The International Labour Organisation". *The International Dimensions of Human Rights* 1 (1982): 363-99.