



Occupational Safety and Health as the new Fundamental Principle and Rights at Work

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In June 2022, the International Labour Conference adopted a [resolution](#) and included a safe and healthy working environment in the ILO's framework of fundamental principles and rights at work, amended the [1998 ILO Declaration on Fundamental Principles and Rights at Work](#) accordingly and recognised [Convention 155](#) and [Convention 187](#) as fundamental ILO conventions.

The Employers' Group has, on several occasions, expressed the significant repercussions such a decision will have for governments and employers, both inside and outside the International Labour Organization (ILO) context.

Within the ILO, Governments that **have not ratified Conventions 155 and 187** will now be required to report regularly on the efforts and advances made to realize the principles of the Conventions, based on their membership to the ILO. There will now be more pressure on them to ratify these two conventions, given their new fundamental status.

Furthermore, those Governments that **have already ratified Conventions 155 and 187** will now be subject to increased scrutiny to implement them effectively in law and practice at the domestic level. They will have to report to the Committee of Experts (CEACR) more frequently, given the shorter reporting period (three instead of six years) for fundamental ILO Conventions. In line with this, there will probably also be more frequent and more detailed comments by the Committee of Experts and more frequent discussions in the Committee on the Application of Standards (CAS) on the application in law and practice of these Conventions.

Beyond the ILO, major trading states, regional groups, and international or regional banks will now try to put additional pressure on developing countries to ratify the new fundamental OSH Conventions and fully implement them by establishing respective requirements in trade agreements, trade incentive schemes, loan or investment agreements.

Moreover, it is likely that international trade unions and non-governmental organisations will also pressure multinational companies to introduce and enforce new rules on OSH for their suppliers in developing countries (although this is not in the scope of the conventions mentioned). Companies will be more exposed to public pressure through social media and consumers to comply with these new requirements, even though the direct obligations of International Labour Standards lie with member states and not companies.

In this context, Employers should start preparing and equipping themselves for the following:

- At the national level:
 - Anticipate national debates on the implication of the new ILO fundamental principle, in particular in the light of Convention 155 and 187, on national laws, interpretation of existing national laws and possible law reforms, as well as on possible ratifications of Conventions 155 and 187.

- Know the scope and content of Conventions 155 and 187, focusing on the main requirements for employers and businesses.
 - Prepare arguments to ensure the defined rights, responsibilities and duties of employers and workers are balanced and that there is a shared responsibility.
 - Request capacity building for employer organisations and businesses, including small and medium enterprises, to support the implementation of this principle.
- At the workplace:
- Ensure that internal OSH-related policies, procedures and practices within the workplace respect, promote and realise in good faith a safe and healthy working environment, in line with the dispositions of Convention 155 and 187 in light of the new fundamental principle.
 - Assess the opportunity to develop a communication strategy to raise awareness of the company's engagement to a safe and healthy working environment in light of the new fundamental principle.

GUIDANCE FOR EMPLOYERS' ORGANISATIONS

- **Social partners should be involved in the discussion** on ratification of the fundamental conventions (155 and or 187) at the national level and be part of all efforts and advances on the path towards ratification. Before ratifying, Governments should seek assistance from the ILO Office to conduct a pre-ratification review, which includes an examination of the feasibility of ratification, i.e. the country's capacity to implement the Convention in question, including to comply with reporting obligations, as well as an assessment of the socio-economic impact of ratification in the country.
- **Governments should focus first on Convention 187**, which is a promotional **framework** instrument with two key aims: 1) the development of a preventative safety and health culture in national agenda; and 2) the application of a systems approach to managing OSH at the national level. The Convention incorporates these basic principles into the three foundational concepts of instruments: i) a national policy; ii) a national system; and iii) a national programme on OSH in which all other OSH-discussions (including on Convention 155) can take place. Convention 187 has the advantage of focusing on **progressively** achieving a safe and healthy working environment, allowing a step-by-step approach.
- **Convention 155 contains more detailed provisions that have direct obligations on employers.** The Convention recognises the contribution of governments and employers must make to prevent harm at the workplace. It requires national authorities to put in place policies and actions to influence behaviour and OSH outcomes at all workplaces and requires the involvement of employers' and workers' representatives in policy making and implementation. It also places obligations on national authorities to have systems for acquiring detailed knowledge of workplace operations, which would inevitably involve employers providing them with this information.
- In the event of ratification, **governments should provide proper incentives, flexibility devices and capacities to implement.** It is critical for Employers' organisations to equip themselves and get a better understanding of OSH instruments and their implications. ACT/EMP team in the International Training Centre of the ILO in Turin (ILO-ITC) has specific training materials at disposal. The ILO can provide technical assistance if necessary.

- **Companies should take appropriate measures** based on a risk assessment, expert support, information, participation, training and instruction, and this from a continuous development point of view.
- As per the **UN Guiding Principles on Business and Human Rights** (UNGPs), it is worth outlining that OSH was already considered as a human right due to its inclusion in article 7 of the International Covenant on Economic, Social and Cultural Rights. However, many companies directly refer in their human rights statements suppliers' code of conduct and other documents directly to the Fundamental Principles and Rights at Work (FPRW) and might need to update them accordingly.

Moreover, the two new ILO fundamental Conventions (ILO Conventions 187 and 155) now included in the ILO FPRW will provide **more precise guidance**. However, this will be accompanied by **greater public scrutiny and stakeholder/consumer pressure** on companies. Therefore, companies may wish to update (1) their policy commitment (2) make sure OSH is embedded in their due diligence process and (3) ensure that internal grievance mechanisms include associated elements linked to OSH. Companies should also identify, mitigate and account for how they address adverse human rights impacts related to OSH. Similarly, companies need to be prepared to potentially report and communicate externally on how they address OSH-related issues.

Existing or emerging due diligence laws in some countries will also have an effect on companies. Employers' organisations should therefore raise awareness among their member companies on the implications of the inclusion of OSH as a FPRW.