

No. 19653

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## MULTILATERAL

**Convention (No. 151) concerning protection of the right to organise and procedures for determining conditions of employment in the public service. Adopted by the General Conference of the International Labour Organisation at its sixty-fourth session, Geneva, 27 June 1978**

*Authentic texts: English and French.*

*Registered by the International Labour Organisation on 23 March 1981.*

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## MULTILATÉRAL

**Convention (n° 151) concernant la protection du droit d'organisation et les procédures de détermination des conditions d'emploi dans la fonction publique. Adoptée par la Conférence générale de l'Organisation internationale du Travail à sa soixante-quatrième session, Genève, 27 juin 1978**

*Textes authentiques : anglais et français.*

*Enregistrée par l'Organisation internationale du Travail le 23 mars 1981.*

## CONVENTION<sup>1</sup> CONCERNING PROTECTION OF THE RIGHT TO ORGANISE AND PROCEDURES FOR DETERMINING CONDITIONS OF EMPLOYMENT IN THE PUBLIC SERVICE

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-fourth Session on 7 June 1978, and

Noting the terms of the Freedom of Association and Protection of the Right to Organise Convention, 1948,<sup>2</sup> the Right to Organise and Collective Bargaining Convention, 1949,<sup>3</sup> and the Workers' Representatives Convention and Recommendation, 1971,<sup>4</sup> and

Recalling that the Right to Organise and Collective Bargaining Convention, 1949, does not cover certain categories of public employees and that the Workers' Representatives Convention and Recommendation, 1971, apply to workers' representatives in the undertaking, and

Noting the considerable expansion of public-service activities in many countries and the need for sound labour relations between public authorities and public employees' organisations, and

Having regard to the great diversity of political, social and economic systems among member States and the differences in practice among them (e.g. as to the respective functions of central and local government, of federal, state and provincial authorities, and of state-owned undertakings and various types of

<sup>1</sup> Came into force on 25 February 1981 in respect of the two following members of the International Labour Organisation, i.e., 12 months after the date on which their ratifications had been registered with the Director-General of the International Labour Organisation, on the dates indicated, in accordance with article 11 (2):

State	Date of deposit
Finland .....	25 February 1980
Sweden .....	11 June 1979

Thereafter, the ratifications by the following States were registered with the Director-General of the International Labour Office on the dates indicated, to take effect 12 months after such registration, in accordance with article 11 (3):

State	Date of deposit
Norway .....	19 March 1980
United Kingdom of Great Britain and Northern Ireland .....	19 March 1980
(With a declaration of application without modification to Gibraltar, Hong Kong and St. Helena.	
With a declaration of application with modifications to Belize.*	
Decision reserved as regards the application to Brunei and Montserrat.)	
Zambia .....	19 August 1980
Peru .....	27 October 1980
Cuba .....	29 December 1980
Portugal .....	9 January 1981

\* Article 5(2): It is considered that officers at Management level in the Public Service cannot be officers in a union.

<sup>2</sup> United Nations, *Treaty Series*, vol. 68, p. 17.

<sup>3</sup> *Ibid.*, vol. 96, p. 257.

<sup>4</sup> *Ibid.*, vol. 883, p. 111.

autonomous or semi-autonomous public bodies, as well as to the nature of employment relationships), and

Taking into account the particular problems arising as to the scope of, and definitions for the purpose of, any international instrument, owing to the differences in many countries between private and public employment, as well as the difficulties of interpretation which have arisen in respect of the application of relevant provisions of the Right to Organise and Collective Bargaining Convention, 1949, to public servants, and the observations of the supervisory bodies of the ILO on a number of occasions that some governments have applied these provisions in a manner which excludes large groups of public employees from coverage by that Convention, and

Having decided upon the adoption of certain proposals with regard to freedom of association and procedures for determining conditions of employment in the public service, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-seventh day of June of the year one thousand nine hundred and seventy-eight the following Convention, which may be cited as the Labour Relations (Public Service) Convention, 1978:

#### *Part I. SCOPE AND DEFINITIONS*

*Article 1.* This Convention applies to all persons employed by public authorities, to the extent that more favourable provisions in other international labour Conventions are not applicable to them.

2. The extent to which the guarantees provided for in this Convention shall apply to high-level employees whose functions are normally considered as policy-making or managerial, or to employees whose duties are of a highly confidential nature, shall be determined by national laws or regulations.

3. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

*Article 2.* For the purpose of this Convention, the term “public employee” means any person covered by the Convention in accordance with Article 1 thereof.

*Article 3.* For the purpose of this Convention, the term “public employees’ organisation” means any organisation, however composed, the purpose of which is to further and defend the interests of public employees.

#### *Part II. PROTECTION OF THE RIGHT TO ORGANISE*

*Article 4.* 1. Public employees shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.

2. Such protection shall apply more particularly in respect of acts calculated to—

- (a) Make the employment of public employees subject to the condition that they shall not join or shall relinquish membership of a public employees' organisation;
- (b) Cause the dismissal of or otherwise prejudice a public employee by reason of membership of a public employees' organisation or because of participation in the normal activities of such an organisation.

*Article 5.* 1. Public employees' organisations shall enjoy complete independence from public authorities.

2. Public employees' organisations shall enjoy adequate protection against any acts of interference by a public authority in their establishment, functioning or administration.

3. In particular, acts which are designed to promote the establishment of public employees' organisations under the domination of a public authority, or to support public employees' organisations by financial or other means, with the object of placing such organisations under the control of a public authority, shall be deemed to constitute acts of interference within the meaning of this Article.

### *Part III. FACILITIES TO BE AFFORDED TO PUBLIC EMPLOYEES' ORGANISATIONS*

*Article 6.* 1. Such facilities shall be afforded to the representatives of recognised public employees' organisations as may be appropriate in order to enable them to carry out their functions promptly and efficiently, both during and outside their hours of work.

2. The granting of such facilities shall not impair the efficient operation of the administration or service concerned.

3. The nature and scope of these facilities shall be determined in accordance with the methods referred to in Article 7 of this Convention, or by other appropriate means.

### *Part IV. PROCEDURES FOR DETERMINING TERMS AND CONDITIONS OF EMPLOYMENT*

*Article 7.* Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for negotiation of terms and conditions of employment between the public authorities concerned and public employees' organisations, or of such other methods as will allow representatives of public employees to participate in the determination of these matters.

### *Part V. SETTLEMENT OF DISPUTES*

*Article 8.* The settlement of disputes arising in connection with the determination of terms and conditions of employment shall be sought, as may be appropriate to national conditions, through negotiation between the parties or through independent and impartial machinery, such as mediation, conciliation and arbitration, established in such a manner as to ensure the confidence of the parties involved.

### *Part VI. CIVIL AND POLITICAL RIGHTS*

*Article 9.* Public employees shall have, as other workers, the civil and political rights which are essential for the normal exercise of freedom of association, subject only to the obligations arising from their status and the nature of their functions.

### *Part VII. FINAL PROVISIONS*

*Article 10.* The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

*Article 11.* 1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

*Article 12.* 1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

*Article 13.* 1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

*Article 14.* The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

*Article 15.* At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

*Article 16.* 1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides—

- (a) The ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 12 above, if and when the new revising Convention shall have come into force;
- (b) As from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

*Article 17.* The English and French versions of the text of this Convention are equally authoritative.

The foregoing is the authentic text of the Convention duly adopted by the General Conference of the International Labour Organisation during its Sixty-fourth Session which was held at Geneva and declared closed the twenty-eighth day of June 1978.

IN FAITH WHEREOF we have appended our signatures this twenty-seventh day of June 1978.