

INTERNATIONAL LABOUR ORGANIZATION



Labour Relations (Public Service) Convention, 1978 (No. 151) : Framework and ratifications in Europe

EPSU/EUROPOL/EUROMIL

15 September 2021

Carlos R. Carrión-Crespo, Sectoral Policies Department

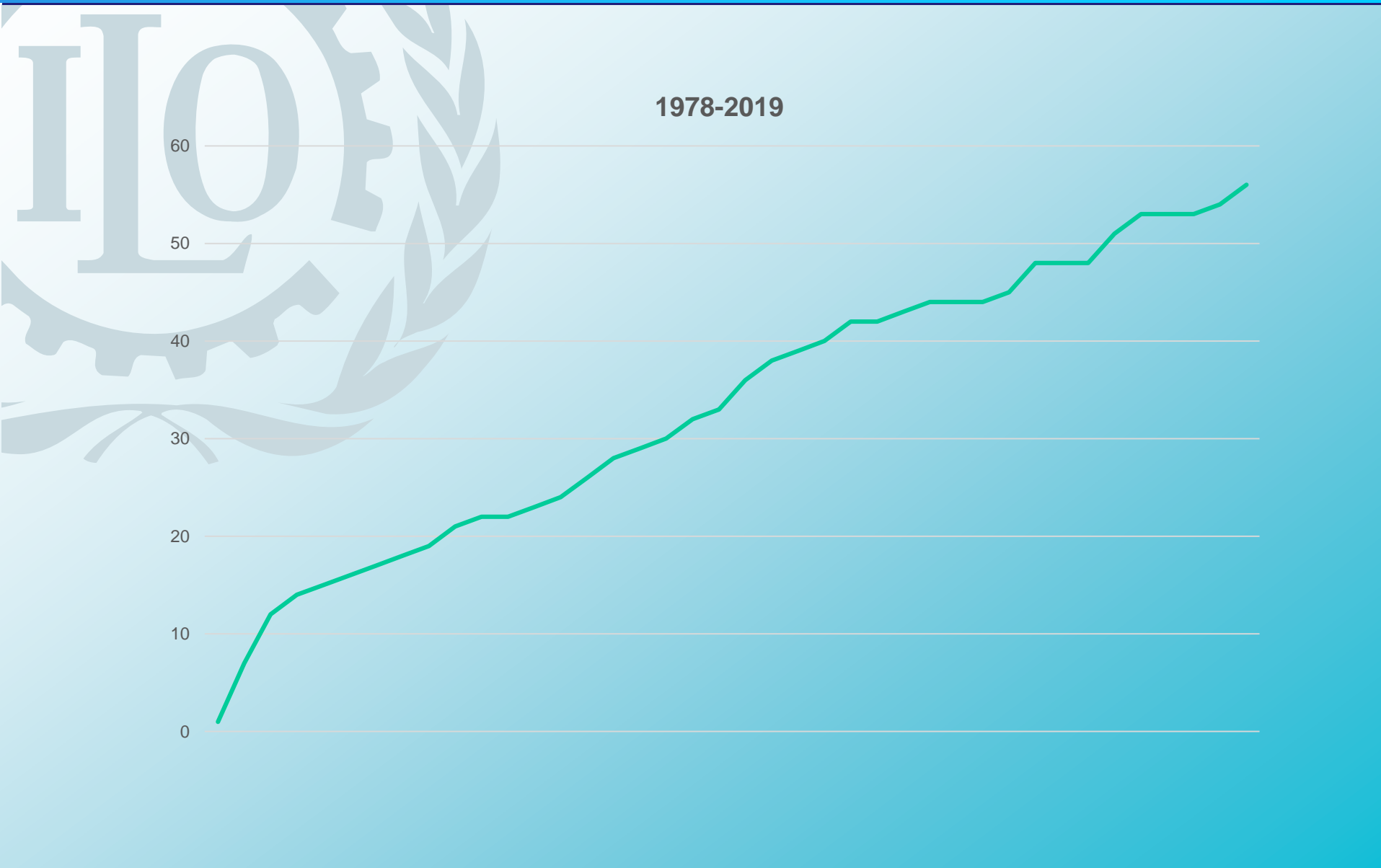
C151

- ❑ Adopted on 27 June 1978
- ❑ Entered into force on 25 February 1981
- ❑ Currently ratified by 54 countries.

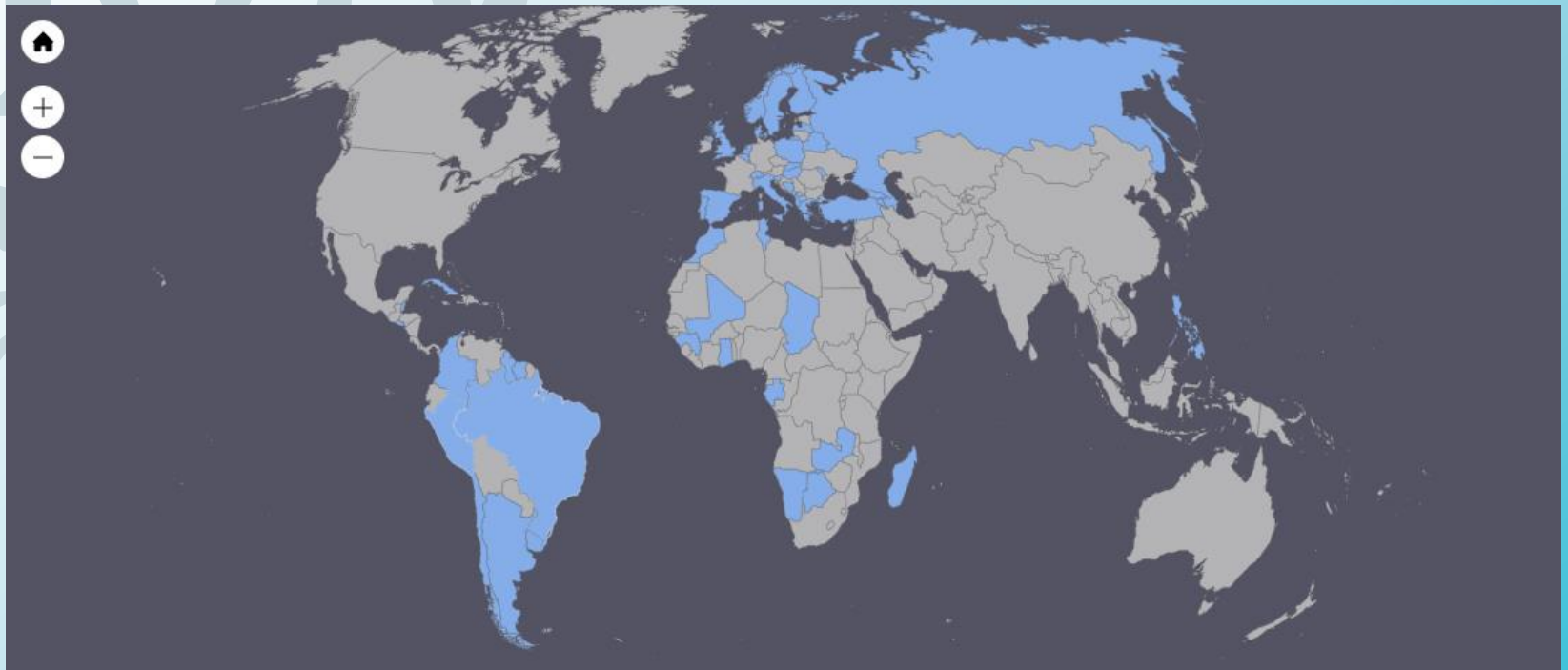
PURPOSE

- ❑ Expansion of public-service activities
- ❑ need for sound labor relations between public authorities and public employees' organizations
- ❑ To complement Convention No. 98

57 Ratifications of C151



Map of ratifications



Ratification process-

Art. 19 (5)(b), ILO Constitution

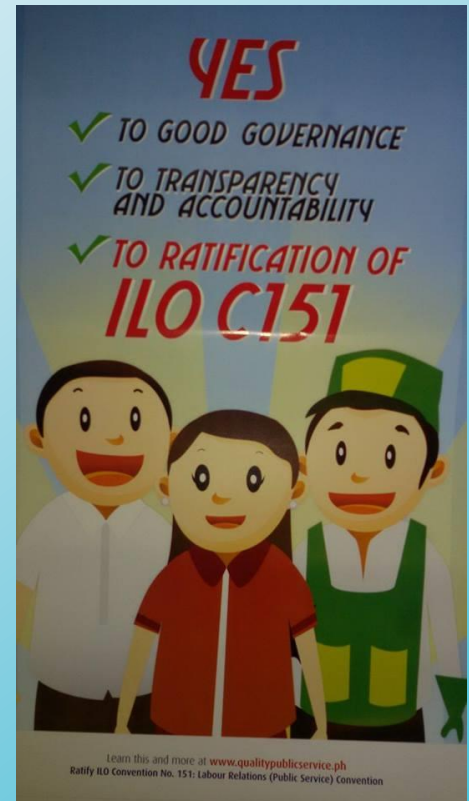
- *Each of the Members . . . will, within the period of one year at most from the closing of the session of the Conference, or if it is impossible owing to exceptional circumstances . . . in no case later than 18 months from the closing of the session of the Conference, bring the Convention before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action;*

Ratification process, cont.

- *(c) Members shall inform the Director-General . . . of the measures taken . . . to bring the Convention before the said competent authority or authorities, with particulars of the authority or authorities regarded as competent, and of the action taken by them;*
- To date, 132 member states have informed the Office that they submitted C151 for ratification.

Ratifications since 2013

- ❑ 2013- Macedonia, Morocco
- ❑ 2014- Tunisia, Russia
- ❑ 2015- Bosnia and Herzegovina
- ❑ 2016- Curaçao (acceptance)
- ❑ 2017- Philippines
- ❑ 2018- Namibia
- ❑ 2019- Madagascar
- ❑ 11 ratifying states were not ILO members in 1978.
- ❑ Currently considering: Bulgaria, South Africa, Ukraine.



Guarantees

C151 has five types of guarantees:

- Protection of the right to organize,
- facilities to be afforded to public employees' organizations,
- procedures for determining terms and conditions of employment,
- settlement of disputes arising in connection with the determination of terms and conditions of employment.
- civil and political rights

Implementation

- ❑ Requires the Government's action to ensure the guarantees stipulated in Articles 4-6 and 9 of the Convention.
- ❑ Entails a commitment to legislate to provide the guarantees directly . . .
- ❑ or the legislation ought to create a firm legal framework to be filled by the social partners themselves.

Article 1: Scope, Exclusions and Exemptions

- Applies to all persons employed in the public service.
- Art. 1(2): it is possible to exclude “high-level employees whose functions are normally considered as policy-making or managerial” or “employees whose duties are of a highly confidential nature”.
- The ILO supervisory bodies have restricted which officials may be excluded.
- No distinction between permanent and temporary or contract staff

Articles 4 and 5: Protection of the Right to Organize

Guarantees provided to public employees and their organizations:

- Adequate protection against acts of anti-union discrimination in respect of public employees' employment (Article 4(1)) and
- Adequate protection against any acts of interference by a public authority in their establishment, functioning or administration (Article 5 (2)).

Article 6: Facilities to be Afforded to Public Employees' Organizations

- Representatives of recognized public employees' organisations should have access to facilities that enable them to carry out their functions promptly and efficiently, both during and outside their hours of work.
- These shall not impair the efficient operation of the administration or service concerned.
- R 159: the Workers' Representatives Recommendation, 1971 (No. 135) provides guidance on the nature and scope of the facilities.

Facilities to be Afforded to Public Employees' Organizations

Government should examine with the social partners how to promote the facilities to be granted to workers' representatives.

Examples:

- ☐ Transport/ communication
- ☐ Time off for union duties
- ☐ Access to management
- ☐ Right of assembly and to attend meetings
- ☐ Ability to collect trade union dues regularly on the premises
- ☐ Authorization to post union notices
- ☐ Capacity to denounce violations to competent authorities.

Article 7: Procedures for Determining Terms and Conditions of Employment

- Art. 7 urges member States to “promote the full development and utilization of machinery for negotiation of terms and conditions of employment . . . or of such other methods as will allow representatives of public employees to participate in the determination of these matters.”
- “Negotiation” under C 151 is “any form of discussion, formal or informal, that was designed to reach agreement.”

Article 9: Civil and Political Rights

- 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.
- This principle had been stated in the Resolution Concerning Trade Union Rights adopted by the ILC in 1970.

Civil liberties essential to exercise union rights:

- Freedom and security of person
- Freedom from arbitrary arrest and detention
- Freedom of opinion and expression
- Freedom to hold opinions without interference and
- Freedom to seek, receive and impart information and ideas through any media and regardless of frontiers,
- Freedom of assembly,
- Right to fair trial by independent / impartial tribunal
- Protection of the property of worker organizations

Ratification: trends

- Governments tend to ratify Conventions that align to their stated values and have little friction with their laws
- Likelihood increases when their peer countries (members of regional bodies) do it.

ILO assistance to Ratification: BiH, N. Macedonia, Montenegro

The EU DG Employment, Social Affairs and Inclusion recommended in 2013 that C151 be ranked as a “Union and Member State shared competence” with high priority.

States proceeded as follows:

- Request for technical assistance
- Gap analysis (drafted, validated)
- Plan of action
- Ratifying Legislation

Pending: Serbia

Russian Federation, rat. 2014

- ❑ Convened a comparative analysis of 47 international treaties and national legislation, including 32 ILO Conventions
- ❑ Concluded that the Russian legislation “almost fully” complies with Convention No. 151. According to the Ministry of Labor, social partnership is “sufficiently fully regulated”.
- ❑ Underscored balance of interests.
- ❑ Ratified 3 ILO Conventions in 2014.

Hungary (1993), Slovenia (2010)

- On the 11 June, Hungary ratified (in order of legislative approval) Conventions No. 148, 81, 155, 132, 105, 127, 144, 88, 141, 129, and 154.
- Slovenia, social agreement for the period 2007–2009 called for government to ratify C151.

Turkey, 1992

- With the ratification of ILO Conventions Nos. 87 and 151 in 1992, the legislature amended Article 53 of the Constitution in 1995 paving the way for public servants to access the right to organise.
- However, unions had to wait until 2001 to be recognised by a trade union act.

Bulgaria, pending

- Economic and Social Council in 2010 agreed to develop an own-initiative analysis on implementation of ILO Conventions.
- Gap analysis conducted without ILO assistance in 2020, recommended amendments to laws.
- National Tripartite Agreement between Employers and Trade Unions, signed on 17.06.2020 for two years
- All three called to ratify C151

Serbia, pending

- ❑ Included C151 in DWCP signed 2013
- ❑ Gap analysis conducted by ILO, validated by government and unions
- ❑ Pending legislative action since 2015

Germany- GS 2013

- civil servant (Beamte) do not have the right to bargain collectively
- the legislative regulation of the civil service is a traditional principle of the civil service under section 33(5) of the Basic Law
- Can't ratify C151

France- GS 2013

- Bargaining is explicitly enshrined in the general regulations on the public service
- Criteria for validation of agreements established by law,
BUT
- Agreements cannot have legal effect

Union activities for ratification

- Czech Republic Activity Program of the Trade Unions of State Authorities and organs, 2015 – 2019

The background of the slide features a large, light blue watermark of the International Labour Organization (ILO) logo. The logo consists of the letters 'ILO' in a stylized font, with a gear and a laurel wreath integrated into the design.

□ Thank you!
Further reading:
www.ilo.org/sector

Contact:
carrion-crespo@ilo.org

Tel: 00 41 22 799 73 48