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ILO: control mechanisms. Application of ILO standards in Italy. State and EU competences. Future of the ILO

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DIPARTIMENTO DI GIURISPRUDENZA

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- **Two types of procedures:**
- examination of periodic reports that States are required to prepare
- complaints lodged by States or raised by the ILO Council ex officio or on the initiative of delegates to the Labour Conference.

Review of periodic reports - Monitoring

- **Review of periodic reports:**
- The ILO carries out detailed monitoring of the application of international standards by member states.
- States are required to submit periodic reports on the measures taken to apply the conventions.
- The procedure is under the direct control of the International Labour Office.
- The status of implementation of the conventions is subject to a series of checks and also involves conventions that have not been ratified.

Review of periodic reports - Monitoring

- **Review of periodic reports:**
- States are required to provide information on the status of domestic legislation on the subject matter of the convention and on any measures they intend to take.
- States are required to specify any difficulties that prevent or delay ratification of the convention.
- The reporting obligation also applies to recommendations.

Review of periodic reports - Monitoring

- **Review of periodic reports:**
- The report is analysed by a Commission of Experts, composed of twenty international scholars in the legal and social fields.
- The Commission's work is essentially written and based on reports submitted by governments and observations from social partners.
- The Commission's annual report consists of three parts: a general section, a section containing observations on the application of ILO standards, and a comprehensive study dedicated to a group of instruments identified each year by the Governing Body.

Review of periodic reports - Monitoring

- **Review of periodic reports:**
- Subsequently, the Commission's annual report on the implementation of the standards by the States is transmitted and submitted to a tripartite Commission appointed by the International Labour Conference.
- The tripartite Commission examines the document and draws up conclusions inviting governments to take specific measures.³ Finally, the annual report of the tripartite Commission is discussed by the International Labour Conference in plenary session.
- If these measures are not accepted by the defaulting State, it may refer the case to the International Court of Justice, which has jurisdiction over the interpretation of conventions.

Complaint – Inquiry commissions

Complaints are examined by specially constituted **committees of inquiry**, made up of independent experts appointed by the Governing Body.

The complaints procedure began in 1961 with a complaint lodged by Ghana alleging violation of the prohibition of forced labour by Portugal in Angola and Mozambique.

Complaint – Inquiry commissions

The Commissions examine the complaint:

- They ascertain the facts.
- They assess whether there has been a violation of ILO standards and finally formulate a recommendation aimed at correcting the situation.

Para-judicial nature of the Commissions:

- Total independence and impartiality
- They follow the rules of adversarial proceedings
- They specify the scope of ILO obligations
- If their recommendations are not implemented, they may give rise to further recommendations in which the Governing Body requests the International Conference to take appropriate measures to ensure their implementation in accordance with Article 33 of the ILO Constitution.

Complaint regarding respect for trade union freedoms

With regard to freedom of association, since 1950 the ILO has had a special procedure in place which allows the governments of member states and trade union and employer organisations to lodge complaints against a member state, even if that state has not ratified the relevant conventions on the subject, since the principle of freedom of association derives directly from the Declaration of Philadelphia.

The ILO has played a significant historical role in this field in countries such as Poland, Chile and South Africa in support of trade union rights and freedoms.

Complaint regarding respect for trade union freedoms

Agreement between the ILO and the United Nations Economic and Social Committee. Complaints lodged by States and/or workers' and employers' organisations against a Member State for alleged non-compliance with the application of a ratified or unratified convention concerning the protection of freedom of association and the rights to consultation and collective bargaining, **RIGHTS CONSIDERED FUNDAMENTAL AND BINDING FOR ALL ILO MEMBERS.**

If the complaint is deemed admissible by the Governing Board, a Committee on Freedom of Association – composed of nine members representing the three parties – is appointed to examine the specific case and submit a report to the Governing Board.

The Committee examines the complaint, may carry out inspections in the countries concerned, and draws up a report addressed to the Governing Board in which it makes appropriate recommendations.

Complaint regarding respect for trade union freedoms

The Committee on Freedom of Association meets three times a year and, since its establishment, has examined over two thousand cases relating to various aspects of freedom of association: among other things, this body has dealt with numerous cases of trade unionists arrested or ‘disappeared’ by authoritarian governments, repeatedly succeeding in securing their release in the face of pressure from the international community.

Italy has ratified most of the ILO conventions. As these are principles, the conventions are translated into domestic legislation and often strengthen worker protections. Current Italian legislation complies with ILO obligations.

<https://www.ilo.org/rome/ilo-italia/convenzioni-ratificate/lang--it/index.htm>

State and EU competences

- The EU has extensive powers in the field of social and employment policy.
- Numerous ILO conventions and recommendations concern matters that fall within the exclusive competence of the EU and/or within the shared competence of the EU and its Member States.
- In a 1990 report, the Committee of Experts stated that it is possible that certain matters governed by ILO instruments fall within the scope of the powers conferred on the Member States of the Union.
- However, Article 19 of the Constitution obliges States to submit the text of conventions and recommendations adopted by the international conference to their national legislative bodies. Submitting them to the European institutions would not, as far as possible, satisfy the obligation incumbent on States.

State and EU competences

- The issue was also the subject of a ruling by the Court of Justice: Opinion 2/1991.
- The issue concerned ILO Convention No. 170 on the safe use of chemicals. The Commission asked the Court to give an opinion on the Union's competence to adopt the convention. The Court's reasoning begins with the statement that the EU is not a member of the ILO, where it only has observer status. The Court finds that the conclusion of ILO Convention No 170 falls within the sphere of competence shared by the Member States and the Community. In such cases, close cooperation between the Member States and the EU must be ensured both in the negotiation and conclusion process and in the fulfilment of the commitments entered into. In the present case, cooperation is all the more necessary since, under current international law, the EU cannot itself conclude an ILO convention, but must do so through the Member States.

State and EU competences

It is therefore incumbent upon the EU institutions and Member States to take all necessary measures to ensure such cooperation in the best possible way, both in the process of submission to the competent authority and ratification of Convention No. 170, and in the fulfilment of the commitments arising therefrom.

The future of work and the 2019 ILO Declaration

The ILO launched the initiative dedicated to the ‘future of work’ as one of seven initiatives for the ILO's centenary in 2019.

The labour initiative proposes an implementation plan:

- work and society;
- decent work for all;
- the organisation of work and production;
- labour governance.

The future of work and the 2019 ILO Declaration

- The International Labour Conference in June 2019 emphasised the importance of tripartism (governments, workers, employers) and social dialogue as pillars of global labour governance. With the ILO Centenary Declaration, the international debate is focusing on human-centred work, calling on Member States to promote policies that value work, making it less subordinate to economic and technological dynamics.

ILO Conference on 13 June 2025

- On 13 June 2025, the ILO conference concluded with the adoption of the first international labour standards aimed at preventing exposure to biological risks in the workplace and protecting workers against such risks. This is a fundamental step in global efforts to safeguard health and safety at work in all sectors.
- The Convention (No. 192) calls on Member States to formulate national policies and adopt measures on occupational health and safety that include the prevention of biological risks and protection against such risks, as well as the development of planning and response measures for emergencies and accidents.
- The Recommendation accompanying the Convention provides detailed guidance on the implementation of these measures, including risk assessment, early warning systems, planning and response measures (e.g. in the event of epidemics or pandemics) and training. The Recommendation also explains the definition of biological hazards and risks and lists specific modes of exposure and transmission, such as air, direct contact or biological vectors.