



Ratification of ILO's Convention 98

On September 20, 2018 by a roll-call vote of 78 for and 0 against, the Senate ratified Convention 98 of the International Labor Organization ("ILO"), adopted in Geneva in 1949, concerning the application of the principles of the right to organize and to bargain collectively.

Convention 98 had already been submitted for ratification in December 1956, however, the Senate considered ratifying its content with reservations, given the fact that it contradicted article 395 of the Federal Labor Law, in force at the time, which allowed

employers to separate from employment those employees who cease to be members to the union or who wanted to join with a different one. In this regard, because the ILO does not allow its member countries to adopt reservations to its conventions, it rejected the proposed terms of the Mexican State and the agreement was not ratified.

Subsequently, in July 2015, President Enrique Peña Nieto again sent Convention 98 to the Senate for ratification, but at the time, by vote of the majority, it was not ruled on.

Finally, it was not until the session held on Thursday, September 20, 2018, when the proposal to ratify the Convention was again presented before the Senate and proceeded to be ratified.

The Convention's main purposes are:

- Promote adequate protection against any act of anti-union discrimination.
- Promote the protection of that employees' and employers' organizations against any acts of interference by each other

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Convention 98 provisions

a. Protection of the right to organize and collective bargaining

The purpose of the Convention 98 of the ILO concerning the right to organize and collective bargaining is to guarantee the following rights:

- Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment

Such protection shall apply more particularly in respect of acts calculated to:

- A. Subject the employment of an employee to the condition of not joining a union or cease to be a member of a union.
 - B. Dismiss or otherwise harm, in any manner, an employee, by reason of union membership or because of participation in a union activities outside working hours or, with the consent of the employer, within working hours.
- Employees' and employers' organizations shall enjoy adequate protection against any act of interference by each other or each other's agents or members in their establishment, functioning or in the administration.

In accordance with the Convention, the acts of interference are, mainly, the actions to promote the establishment of employees' organizations under the de facto control of employers or employers' organizations, or to support employees' organizations, by financial or any other means, with the purpose of placing such organizations under the de facto control of employers or employers' organizations.

b. Commitments of the Mexican State.

Upon ratification of the Convention 98 of the ILO, the Mexican State shall cause to:

01. Implement mechanisms, adequate to the national conditions, when necessary, for the purpose of ensuring respect for the right to right to organize and collective bargaining.
02. Adopt measures adequate to the national conditions, when necessary, to encourage and promote the full development and implementation of mechanisms for voluntary negotiation between employers or employers' organizations and employees' organizations, in order to document and regulate the terms and conditions of employment by means of collective bargaining agreements.

c. Scope of the convention.

Furthermore, the Convention 98 provides that the Mexican Laws or Regulations shall determine the scope of the rights included therein with respect to the armed forces and police.

The foregoing is consistent with the sixth provision of the Convention that provides that the Convention does not deal with the position of public officers or employees engaged in the administration of the State, nor shall it be construed as contravention to their rights or status in any way.

d. Effective date.

The Convention 98 shall come into force for Mexico, twelve months after the date on which its ratification has been registered with the Director-General of the International Labor Office.

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