

# R204 - Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)

## *Recommendation concerning the transition from the informal to the formal economy*

*Adoption: Geneva, 104th ILC session (12 Jun 2015) - Status: Up-to-date instrument.*

### **Preamble**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 104th Session on 1 June 2015, and

Recognizing that the high incidence of the informal economy in all its aspects is a major challenge for the rights of workers, including the fundamental principles and rights at work, and for social protection, decent working conditions, inclusive development and the rule of law, and has a negative impact on the development of sustainable enterprises, public revenues and governments' scope of action, particularly with regard to economic, social and environmental policies, the soundness of institutions and fair competition in national and international markets, and

Acknowledging that most people enter the informal economy not by choice but as a consequence of a lack of opportunities in the formal economy and in the absence of other means of livelihood, and

Recalling that decent work deficits – the denial of rights at work, the absence of sufficient opportunities for quality employment, inadequate social protection and the absence of social dialogue – are most pronounced in the informal economy, and

Acknowledging that informality has multiple causes, including governance and structural issues, and that public policies can speed up the process of transition to the formal economy, in a context of social dialogue, and

Recalling the Declaration of Philadelphia, 1944, the Universal Declaration of Human Rights, 1948, the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, and the ILO Declaration on Social Justice for a Fair Globalization, 2008, and

Reaffirming the relevance of the eight ILO fundamental Conventions and other relevant international labour standards and United Nations instruments as listed in the Annex, and

Recalling the resolution and Conclusions concerning decent work and the informal economy adopted by the International Labour Conference at its 90th Session (2002), and other relevant resolutions and Conclusions as listed in the Annex, and

Affirming that the transition from the informal to the formal economy is essential to achieve inclusive development and to realize decent work for all, and

Recognizing the need for Members to take urgent and appropriate measures to enable the transition of workers and economic units from the informal to the formal economy, while ensuring the preservation and improvement of existing livelihoods during the transition, and

Recognizing that employers' and workers' organizations play an important and active role in facilitating the transition from the informal to the formal economy, and

Having decided upon the adoption of certain proposals with regard to the transition from the informal to the formal economy, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation;

adopts this twelfth day of June of the year two thousand and fifteen the following Recommendation, which may be cited as the Transition from the Informal to the Formal Economy Recommendation, 2015.

## **I. Objectives and scope**

- 1. This Recommendation provides guidance to Members to:
  - (a) facilitate the transition of workers and economic units from the informal to the formal economy, while respecting workers' fundamental rights and ensuring opportunities for income security, livelihoods and entrepreneurship;
  - (b) promote the creation, preservation and sustainability of enterprises and decent jobs in the formal economy and the coherence of macroeconomic, employment, social protection and other social policies; and
  - (c) prevent the informalization of formal economy jobs.
- 2. For the purposes of this Recommendation, the term "informal economy":
  - (a) refers to all economic activities by workers and economic units that are – in law or in practice – not covered or insufficiently covered by formal arrangements; and
  - (b) does not cover illicit activities, in particular the provision of services or the production, sale, possession or use of goods forbidden by law, including the illicit production and trafficking of drugs, the illicit manufacturing of and trafficking in firearms, trafficking in persons, and money laundering, as defined in the relevant international treaties.
- 3. For the purposes of this Recommendation, "economic units" in the informal economy include:
  - (a) units that employ hired labour;
  - (b) units that are owned by individuals working on their own account, either alone or with the help of contributing family workers; and
  - (c) cooperatives and social and solidarity economy units.
- 4. This Recommendation applies to all workers and economic units – including enterprises, entrepreneurs and households – in the informal economy, in particular:
  - (a) those in the informal economy who own and operate economic units, including:
    - (i) own-account workers;
    - (ii) employers; and
    - (iii) members of cooperatives and of social and solidarity economy units;
  - (b) contributing family workers, irrespective of whether they work in economic units in the formal or informal economy;
  - (c) employees holding informal jobs in or for formal enterprises, or in or for economic units in the informal economy, including but not limited to those in subcontracting and in supply chains, or as paid domestic workers employed by households; and
  - (d) workers in unrecognized or unregulated employment relationships.
- 5. Informal work may be found across all sectors of the economy, in both public and private spaces.

- 6. In giving effect to the provisions of Paragraphs 2 to 5 above, and given the diversity of the informal economy across member States, the competent authority should identify the nature and extent of the informal economy as described in this Recommendation, and its relationship to the formal economy. In so doing, the competent authority should make use of tripartite mechanisms with the full participation of the most representative employers' and workers' organizations, which should include in their rank, according to national practice, representatives of membership-based representative organizations of workers and economic units in the informal economy.

### **Guiding principles II.**

- 7. In designing coherent and integrated strategies to facilitate the transition to the formal economy, Members should take into account the following:
  - (a) the diversity of characteristics, circumstances and needs of workers and economic units in the informal economy, and the necessity to address such diversity with tailored approaches;
  - (b) the specific national circumstances, legislation, policies, practices and priorities for the transition to the formal economy;
  - (c) the fact that different and multiple strategies can be applied to facilitate the transition to the formal economy;
  - (d) the need for coherence and coordination across a broad range of policy areas in facilitating the transition to the formal economy;
  - (e) the effective promotion and protection of the human rights of all those operating in the informal economy;
  - (f) the fulfilment of decent work for all through respect for the fundamental principles and rights at work, in law and practice;
  - (g) the up-to-date international labour standards that provide guidance in specific policy areas (see Annex);
  - (h) the promotion of gender equality and non-discrimination;
  - (i) the need to pay special attention to those who are especially vulnerable to the most serious decent work deficits in the informal economy, including but not limited to women, young people, migrants, older people, indigenous and tribal peoples, persons living with HIV or affected by HIV or AIDS, persons with disabilities, domestic workers and subsistence farmers;
  - (j) the preservation and expansion, during the transition to the formal economy, of the entrepreneurial potential, creativity, dynamism, skills and innovative capacities of workers and economic units in the informal economy;
  - (k) the need for a balanced approach combining incentives with compliance measures; and
  - (l) the need to prevent and sanction deliberate avoidance of, or exit from, the formal economy for the purpose of evading taxation and the application of social and labour laws and regulations.

### **Legal and policy frameworks III.**

- 8. Members should undertake a proper assessment and diagnostics of factors, characteristics, causes and circumstances of informality in the national context to inform the design and implementation of laws and regulations, policies and other measures aiming to facilitate the transition to the formal economy.
- 9. Members should adopt, review and enforce national laws and regulations or other measures to ensure appropriate coverage and protection of all categories of workers and economic units.
- 10. Members should ensure that an integrated policy framework to facilitate the transition to the formal economy is included in national development strategies or plans as well as in poverty reduction strategies and budgets, taking into account, where appropriate, the role of different levels of government.

- 11. This integrated policy framework should address:
  - (a) the promotion of strategies for sustainable development, poverty eradication and inclusive growth, and the generation of decent jobs in the formal economy;
  - (b) the establishment of an appropriate legislative and regulatory framework;
  - (c) the promotion of a conducive business and investment environment;
  - (d) respect for and promotion and realization of the fundamental principles and rights at work;
  - (e) the organization and representation of employers and workers to promote social dialogue;
  - (f) the promotion of equality and the elimination of all forms of discrimination and violence, including gender-based violence, at the workplace;
  - (g) the promotion of entrepreneurship, micro, small and medium-sized enterprises, and other forms of business models and economic units, such as cooperatives and other social and solidarity economy units;
  - (h) access to education, lifelong learning and skills development;
  - (i) access to financial services, including through a regulatory framework promoting an inclusive financial sector;
  - (j) access to business services;
  - (k) access to markets;
  - (l) access to infrastructure and technology;
  - (m) the promotion of sectoral policies;
  - (n) the establishment of social protection floors, where they do not exist, and the extension of social security coverage;
  - (o) the promotion of local development strategies, both rural and urban, including regulated access for use of public space and regulated access to public natural resources for subsistence livelihoods;
  - (p) effective occupational safety and health policies;
  - (q) efficient and effective labour inspections;
  - (r) income security, including appropriately designed minimum wage policies;
  - (s) effective access to justice; and
  - (t) international cooperation mechanisms.
- 12. When formulating and implementing an integrated policy framework, Members should ensure coordination across different levels of government and cooperation between the relevant bodies and authorities, such as tax authorities, social security institutions, labour inspectorates, customs authorities, migration bodies and employment services, among others, depending on national circumstances.
- 13. Members should recognize the importance of safeguarding the opportunities of workers and economic units for income security in the transition to the formal economy by providing the means for such workers or economic units to obtain recognition of their existing property as well as by providing the means to formalize property rights and access to land.

#### **IV. Employment policies**

- 14. In pursuing the objective of quality job creation in the formal economy, Members should formulate and implement a national employment policy in line with the Employment Policy Convention, 1964 (No. 122), and make full, decent, productive and freely chosen employment a central goal in their national development and growth strategy or plan.
- 15. Members should promote the implementation of a comprehensive employment policy framework, based on tripartite consultations, that may include the following elements:

- (a) pro-employment macroeconomic policies that support aggregate demand, productive investment and structural transformation, promote sustainable enterprises, support business confidence, and address inequalities;
- (b) trade, industrial, tax, sectoral and infrastructure policies that promote employment, enhance productivity and facilitate structural transformation processes;
- (c) enterprise policies that promote sustainable enterprises and, in particular, the conditions for a conducive environment, taking into account the resolution and Conclusions concerning the promotion of sustainable enterprises adopted by the International Labour Conference at its 96th Session (2007), including support to micro, small and medium-sized enterprises and entrepreneurship, and well-designed, transparent and well-communicated regulations to facilitate formalization and fair competition;
- (d) labour market policies and institutions to help low-income households to escape poverty and access freely chosen employment, such as appropriately designed wage policies including minimum wages, social protection schemes including cash transfers, public employment programmes and guarantees, and enhanced outreach and delivery of employment services to those in the informal economy;
- (e) labour migration policies that take into account labour market needs and promote decent work and the rights of migrant workers;
- (f) education and skills development policies that support lifelong learning, respond to the evolving needs of the labour market and to new technologies, and recognize prior learning such as through informal apprenticeship systems, thereby broadening options for formal employment;
- (g) comprehensive activation measures to facilitate the school-to-work transition of young people, in particular those who are disadvantaged, such as youth guarantee schemes to provide access to training and continuing productive employment;
- (h) measures to promote the transition from unemployment or inactivity to work, in particular for long-term unemployed persons, women and other disadvantaged groups; and
- (i) relevant, accessible and up-to-date labour market information systems.

## **V. Rights and social protection**

- 16. Members should take measures to achieve decent work and to respect, promote and realize the fundamental principles and rights at work for those in the informal economy, namely:
  - (a) freedom of association and the effective recognition of the right to collective bargaining;
  - (b) the elimination of all forms of forced or compulsory labour;
  - (c) the effective abolition of child labour; and
  - (d) the elimination of discrimination in respect of employment and occupation.
- 17. Members should:
  - (a) take immediate measures to address the unsafe and unhealthy working conditions that often characterize work in the informal economy; and
  - (b) promote and extend occupational safety and health protection to employers and workers in the informal economy.
- 18. Through the transition to the formal economy, Members should progressively extend, in law and practice, to all workers in the informal economy, social security, maternity protection, decent working conditions and a minimum wage that takes into account the needs of workers and considers relevant factors, including but not limited to the cost of living and the general level of wages in their country.
- 19. In building and maintaining national social protection floors within their social security system and facilitating the transition to the formal economy, Members should pay particular attention to the needs and circumstances of those in the informal economy and their families.

- 20. Through the transition to the formal economy, Members should progressively extend the coverage of social insurance to those in the informal economy and, if necessary, adapt administrative procedures, benefits and contributions, taking into account their contributory capacity.
- 21. Members should encourage the provision of and access to affordable quality childcare and other care services in order to promote gender equality in entrepreneurship and employment opportunities and to enable the transition to the formal economy.

## **VI. Incentives, compliance and enforcement**

- 22. Members should take appropriate measures, including through a combination of preventive measures, law enforcement and effective sanctions, to address tax evasion and avoidance of social contributions, labour laws and regulations. Any incentives should be linked to facilitating the effective and timely transition from the informal to the formal economy.
- 23. Members should reduce, where appropriate, the barriers to the transition to the formal economy and take measures to promote anti-corruption efforts and good governance.
- 24. Members should provide incentives for, and promote the advantages of, effective transition to the formal economy, including improved access to business services, finance, infrastructure, markets, technology, education and skills programmes, and property rights.
- 25. With respect to the formalization of micro and small economic units, Members should:
  - (a) undertake business entry reforms by reducing registration costs and the length of the procedure, and by improving access to services, for example, through information and communication technologies;
  - (b) reduce compliance costs by introducing simplified tax and contributions assessment and payment regimes;
  - (c) promote access to public procurement, consistent with national legislation, including labour legislation, through measures such as adapting procurement procedures and volumes, providing training and advice on participating in public tenders, and reserving quotas for these economic units;
  - (d) improve access to inclusive financial services, such as credit and equity, payment and insurance services, savings, and guarantee schemes, tailored to the size and needs of these economic units;
  - (e) improve access to entrepreneurship training, skills development and tailored business development services; and
  - (f) improve access to social security coverage.
- 26. Members should put in place appropriate mechanisms or review existing mechanisms with a view to ensuring compliance with national laws and regulations, including but not limited to ensuring recognition and enforcement of employment relationships, so as to facilitate the transition to the formal economy.
- 27. Members should have an adequate and appropriate system of inspection, extend coverage of labour inspection to all workplaces in the informal economy in order to protect workers, and provide guidance for enforcement bodies, including on how to address working conditions in the informal economy.
- 28. Members should take measures to ensure the effective provision of information, assistance in complying with the relevant laws and regulations, and capacity building for relevant actors.
- 29. Members should put in place efficient and accessible complaint and appeal procedures.
- 30. Members should provide for preventive and appropriate corrective measures to facilitate the transition to the formal economy, and ensure that the administrative, civil or penal sanctions provided for by national laws for non-compliance are adequate and strictly enforced.

## **Freedom of association, social dialogue and role of employers' and workers' organizations VII.**

- 31. Members should ensure that those in the informal economy enjoy freedom of association and the right to collective bargaining, including the right to establish and, subject to the rules of the organization concerned, to join organizations, federations and confederations of their own choosing
- 32. Members should create an enabling environment for employers and workers to exercise their right to organize and to bargain collectively and to participate in social dialogue in the transition to the formal economy
- 33. Employers' and workers' organizations should, where appropriate, extend membership and services to workers and economic units in the informal economy
- 34. In designing, implementing and evaluating policies and programmes of relevance to the informal economy, including its formalization, Members should consult with and promote active participation of the most representative employers' and workers' organizations, which should include in their rank, according to national practice, representatives of membership-based representative organizations of workers and economic units in the informal economy
- 35. Members and employers' and workers' organizations may seek the assistance of the International Labour Office to strengthen the capacity of the representative employers' and workers' organizations and, where they exist, representative organizations of those in the informal economy, to assist workers and economic units in the informal economy, with a view to facilitating the transition to the formal economy

#### **Data collection and monitoring VIII.**

- 36. Members should, in consultation with employers' and workers' organizations, on a regular basis:
  - (a) where possible and as appropriate, collect, analyse and disseminate statistics disaggregated by sex, age, workplace, and other specific socio-economic characteristics on the size and composition of the informal economy, including the number of informal economic units, the number of workers employed and their sectors; and
  - (b) monitor and evaluate the progress towards formalization.
- 37. In developing or revising the concepts, definitions and methodology used in the production of data, statistics and indicators on the informal economy, Members should take into consideration relevant guidance provided by the International Labour Organization, in particular and as appropriate, the guidelines concerning a statistical definition of informal employment adopted by the 17th International Conference of Labour Statisticians in 2003 and their subsequent updates.

#### **Implementation IX.**

- 38. Members should give effect to the provisions of this Recommendation, in consultation with the most representative employers' and workers' organizations, which should include in their rank, according to national practice, representatives of membership-based representative organizations of workers and economic units in the informal economy, by one or a combination of the following means, as appropriate;
  - (a) national laws and regulations;
  - (b) collective agreements;
  - (c) policies and programmes;
  - (d) effective coordination among government bodies and other stakeholders;
  - (e) institutional capacity building and resource mobilization; and
  - (f) other measures consistent with national law and practice.
- 39. Members should review on a regular basis, as appropriate, the effectiveness of policies and measures to facilitate the transition to the formal economy, in consultation with the most representative employers' and workers' organizations, which should include in their rank, according to national practice, representatives of membership-based representative organizations of workers and economic units in the informal economy.

- 40. In establishing, developing, implementing and periodically reviewing the measures taken to facilitate the transition to the formal economy, Members should take into account the guidance provided by the instruments of the International Labour Organization and the United Nations relevant to the informal economy listed in the Annex.
- 41. Nothing in this Recommendation should be construed as reducing the protections afforded to those in the informal economy by other instruments of the International Labour Organization.
- 42. The Annex may be revised by the Governing Body of the International Labour Office. Any revised Annex so established, once approved by the Governing Body, shall replace the preceding annex and shall be communicated to the Members of the International Labour Organization.

## **Annex**

### ***Instruments of the International Labour Organization and the United Nations relevant to facilitating the transition from the informal to the formal economy***

#### INSTRUMENTS OF THE INTERNATIONAL LABOUR ORGANIZATION

##### **Fundamental Conventions**

- — Forced Labour Convention, 1930 (No. 29), and Protocol of 2014 to the Forced Labour Convention, 1930
- — Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- — Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- — Equal Remuneration Convention, 1951 (No. 100)
- — Abolition of Forced Labour Convention, 1957 (No. 105)
- — Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- — Minimum Age Convention, 1973 (No. 138)
- — Worst Forms of Child Labour Convention, 1999 (No. 182)

##### **Governance Conventions**

- — Labour Inspection Convention, 1947 (No. 81)
- — Employment Policy Convention, 1964 (No. 122)
- — Labour Inspection (Agriculture) Convention, 1969 (No. 129)
- — Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)

##### **Other instruments**

###### *Freedom of association, collective bargaining and industrial relations*

- — Rural Workers' Organisations Convention, 1975 (No. 141)
- — Collective Bargaining Convention, 1981 (No. 154)

###### *Equality of opportunity and treatment*

- — Workers with Family Responsibilities Convention, 1981 (No. 156)

###### *Employment policy and promotion*

- — Employment Policy Recommendation, 1964 (No. 122)
- — Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)
- — Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169)
- — Private Employment Agencies Convention, 1997 (No. 181)
- — Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189)
- — Promotion of Cooperatives Recommendation, 2002 (No. 193)
- — Employment Relationship Recommendation, 2006 (No. 198)

#### *Vocational guidance and training*

- – Human Resources Development Convention, 1975 (No. 142)
- – Human Resources Development Recommendation, 2004 (No. 195)

#### *Wages*

- – Labour Clauses (Public Contracts) Convention (No. 94) and Recommendation (No. 84), 1949
- – Minimum Wage Fixing Convention (No. 131) and Recommendation (No. 135), 1970

#### *Occupational safety and health*

- – Occupational Safety and Health Convention, 1981 (No. 155)
- – Safety and Health in Agriculture Convention (No. 184) and Recommendation (No. 192), 2001
- – Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)

#### *Social security*

- – Social Security (Minimum Standards) Convention, 1952 (No. 102)
- – Social Protection Floors Recommendation, 2012 (No. 202)

#### *Maternity protection*

- – Maternity Protection Convention, 2000 (No. 183)

#### *Migrant workers*

- – Migration for Employment Convention (Revised), 1949 (No. 97)
- – Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)

#### *HIV and AIDS*

- – HIV and AIDS Recommendation, 2010 (No. 200)

#### *Indigenous and tribal peoples*

- – Indigenous and Tribal Peoples Convention, 1989 (No. 169)

#### *Specific categories of workers*

- – Home Work Convention, 1996 (No. 177)
- – Domestic Workers Convention (No. 189) and Recommendation (No. 201), 2011

#### *Resolutions of the International Labour Conference*

- – Resolution and Conclusions concerning the promotion of sustainable enterprises adopted by the International Labour Conference at its 96th Session (2007)
- – Resolution and Conclusions concerning the youth employment crisis adopted by the International Labour Conference at its 101st Session (2012)
- – Resolution and Conclusions concerning the second recurrent discussion on employment adopted by the International Labour Conference at its 103rd Session (2014)

### UNITED NATIONS INSTRUMENTS

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- – Universal Declaration of Human Rights, 1948
- – International Covenant on Economic, Social and Cultural Rights, 1966
- – International Covenant on Civil and Political Rights, 1966
- – International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990