

## Committee on the Application of Standards

**Date:** 20 May 2021

*Governments appearing on the preliminary list of individual cases have the opportunity, if they so wish, to supply on a purely voluntary basis, written information before 20 May 2021.*

### ▶ Information on the application of ratified Conventions supplied by governments on the preliminary list of individual cases

#### Indonesia

#### Equal Remuneration Convention, 1951 (No. 100)

**(Ratification: 1958)**

The Government has provided the following written information.

Observation, 2020

I. Article 1 (b) of the Convention. Equal remuneration for work of equal value. Legislation.

- As explained in the previous report, the application of labor law in Indonesia is based on the principle of equal treatment without discrimination, including in terms of wages, as specified in Article 5 and 6 of Law No. 13 of 2003 concerning Manpower (Manpower Law).
- Regarding wage arrangements, Indonesia has currently made several improvements in the regulatory structure, through Law No. 11 of 2020 concerning Job Creation and Government Regulation No. 36 of 2021 concerning Wages.
- Article 88A (2) of Law No. 11 of 2020 concerning Job Creation stipulated that the principle of wages in Indonesia is "every worker/labor has the right to equal remuneration for work of equal value". This affirms that in implementing the wage systems, employers may not determine the wages of their workers based on considerations of gender, ethnicity, race, religion, skin color, and political ideology. This principle was previously regulated in a Government Regulation, and now this principle has stronger legal force in the framework of Law. If business violates this principle in the implementation of wages, they will be subject to sanctions.
- Employers are obliged to arrange the structure and scale of wages in the company by taking into account the company's ability and productivity, as stated in Article 92 (1) of Law No. 11 of 2020 concerning Job Creation. The structure and scale of wages are used as guidelines in determining wages in order to ensure certainty of wages for

workers/laborers and reduce the gap between the lowest and highest wages in the company. The structure and scale of wages are arranged rationally, namely through: job analysis, job evaluation, benchmarks, and determination of the wage structure and scale. During job evaluation, the value or weight of the job will be measured by occupational factors that can be compensated, including the education, skills, and experience required in the position, so that the wages received by workers/laborers will be under the value or weight of the work. Thus, the provision of wages for each worker will be fairer and avoid all elements of discrimination, including gender subjectivity.

- In the case of increasing wages, Article 92A of Law No. 11 of 2020 concerning Job Creation mandates employers to conduct regular wage reviews by taking into account the company's ability and productivity. The company's ability to pay workers/laborers' wages can be seen from the analysis of financial ratios. Meanwhile, wage review linked to productivity are intended to reward workers/labors for their contribution to the company's performance. This is based on the results of the performance appraisal of workers/labors by the company. Worker/laborers, both men, and women who perform well will get a better reward of benefits than workers/laborers who perform average. Thus, the wage reviews based on company capability and productivity will also avoid gender bias.
- To ensure that the company has implemented the wage structures and scales, the government requires companies to attach a statement from the company's leadership that the wage structures and scales have been drawn up and applied when applying for the ratification and renewal of the Company Regulations, or registration, extension, and renewal of the Collective Bargaining Agreement. At the same time, the company is also asked to report the preparation and application of the wage structures and scales through mandatory labor reports.
- Companies that violate the provisions on the structure and scale of wages will be subject to administrative sanctions in the form of:
  - a. written warning;
  - b. restrictions on business activities;
  - c. temporary cessation of part or all of the means of production; and
  - d. Suspension of business

## II. Article 2 (2) (a). Discriminatory provisions with respect to benefits and allowance

- As previously explained, the wage system in Indonesia is based on Law No. 11 of 2020 and Government Regulation No. 36 of 2021. In principle, every worker/laborer has the right to equal remuneration regardless of gender, ethnicity, race, religion, skin color, and political ideology.
- Article 7 of Government Regulation No. 36 of 2021 concerning Wages has set the wages component which consists of:
  - wages without allowances;
  - basic wage and fixed allowances;
  - basic wage, fixed allowance, and temporary allowance or;
  - basic wage and non-permanent allowance

- Permanent allowance is a payment to workers/laborers that are made regularly and is not linked to the attendance of the worker/laborer or the achievement of certain work target. In practice, these types of fixed allowances may vary and are not the same for all companies.
- In principle, the benefits arrangements in the company are adjusted to the needs of workers and the capabilities of the company. Further arrangements regarding benefits are arranged in the Work Agreement/Company Regulation/Collective Bargaining Agreement, in this case, the Government ensures that there is no discrimination in the substances to be regulated in this Company Regulation or Collective Bargaining Agreement. The government plays a role in examining the substances and completeness of the requirements for making the Company Regulation or Collective Bargaining Agreement for adopting the Company Regulation or issuing proof of registration of the Collective Bargaining Agreement. Furthermore, the government also continues to evaluate the implementation of equality in the workplace and also reminds stakeholders in the implementation of program to ensure that discrimination does not occur in the workplace.
- The government appreciates the committee's suggestion to collect information about women's access in the practice of allowances with social partners, for recommendation and consideration to government in preparing the future programs.

We will provide any further developments and information, if any, related to comments made by the Committee of Experts, at the first convenience.

## Direct Request, 2020

### I. Article 1(a) of the Convention. Definition of remuneration.

- The Government of Indonesia has made improvement to manpower policies, including aspects of wage arrangements. In 2020, Indonesia has enacted Law Number 11 of 2020 concerning Job Creation which contains the provisions of Law Number 13 of 2003 concerning Manpower, and further arrangements for wages are stipulated in Government Regulation Number 36 of 2021 concerning Wages.
- The principle of wage in Indonesia is in accordance with Article 1 (b) of the Convention as stated in Article 88A paragraph (2) of Law Number 11 of 2020 concerning Job Creation, is "every worker/labor has the right to equal remuneration for work of equal value". The Government of Indonesia emphasizes that in implementing Article 88A paragraph (2), employers are not allowed to discriminate wages against each employee on the basis of gender, ethnicity, race, religion, skin color and political ideology. This principle currently has stronger legal force because it has been regulated in the framework of a Law—previously only regulated in a Government Regulation. Thus, if business violates this principle in the application of wages, they will be subject to sanctions.
- The Government of Indonesia has regulated the form of non-wage income as stated in Article 6 paragraph (2) of Government Regulation Number 36 of 2021 concerning Wages. Therefore, the principle of "applying wages without discrimination" also applies in the application of non-wage income.

### II. Articles 1 and 2. Gender pay gap.

- In an effort to reduce gender pay gap and increase women's participation in a broader scope of work, the Government has formed an Equal Employment

Opportunity (EEO) Task Force, which is a task force consisting of tripartite elements at the national and regional levels. Some of the functions of the of EEO include, among others:

1. Improving correctional regarding equality and non-discrimination;
2. Developing and improving guidelines on equality and non-discrimination;
3. Increasing the capacity of stakeholders in terms of equality and non-discrimination;
4. Responding to requests for facilitation and supervision regarding equality and non-discrimination; and
5. Improving Supervision.

### III. Article 2(b). Minimum wages.

- Indonesia has set a minimum wage level based on objective criteria and is free of gender bias. The minimum wage is determined based on the economic and employment conditions in each region by referring to data sourced from the authorized institution in the field of statistics. Minimum wage is a wage intended for all workers, both men and women, whose work period is less than one year.
- Law Number 11 of 2020 concerning Job Creation also mandates that the Sectoral Minimum Wage can no longer be determined, so that it will not affect certain occupational sectors which are either dominated by women or men.

### IV. Article 3. Objective job evaluation.

- The definition and arrangement of workers in the private sector and state-owned enterprises is regulated in Law Number 13 of 2003 while the definition of workers in the public sector is regulated in Law Number 5 of 2014.
- The wage setting mechanism and salary structure for public sector workers in Government Regulation Number 34 of 2014 are in line with the Convention principles.
- Job evaluation as stipulated in Government Regulation Number 34 of 2014 is intended to determine the value and class of public sector workers. The evaluation is carried out through an objective method (Factor Evaluation System/FES) to ensure that the wage received by public sector workers is in accordance with the job value and job class. This is intended to prevent discrimination in the payment of public sector workers.

### V. Enforcement.

- The Government of Indonesia has implemented various awareness-raising and capacity building programs for stakeholders, including the supervision of wage implementation, a cadre program to train labor norm for management in companies, unions, or stakeholders who can help supervise and educate workers in companies to implement labor norms.
- Based on the results of monitoring related to violations of the principles of the Convention in Indonesia, acts of discrimination and gender bias were not found.