



Targeted Surveys on application of core labour standards Ecuador

**Written by Ergon Associates
August 2018 (Revised)**

Ergon



EUROPEAN COMMISSION

Directorate-General for Employment, Social Affairs and Inclusion
Directorate D — Labour Mobility
Unit D.3 — International Issues

E-mail: empl-d3-unit@ec.europa.eu

European Commission
B-1049 Brussels

Targeted Surveys on application of core labour standards Ecuador

Directorate-General for Employment, Social Affairs and Inclusion
EU Programme for Employment and Social Innovation

2018

EU [Number] EN

***Europe Direct is a service to help you find answers
to your questions about the European Union.***

Freephone number (*):

00 800 6 7 8 9 10 11

(*) The information given is free, as are most calls (though some operators, phone boxes or hotels may charge you).

LEGAL NOTICE

The information and views set out in this survey report are those of the author(s) and do not necessarily reflect the official opinion of the Commission. The Commission does not guarantee the accuracy of the data included in this study. Neither the Commission nor any person acting on the Commission's behalf may be held responsible for the use which may be made of the information contained therein.

More information on the European Union is available on the Internet (<http://www.europa.eu>).

Targeted Surveys on application of core labour standards, Ecuador

This report has been developed to provide a picture of the application of core labour standards in Ecuador. The report is based on a combination of desk research and stakeholder interviews. The assessments of the issues covered in the report are based on the views of credible international organisations, national governments, employer organisations, trade unions, experts and other stakeholders.

Progress

- Union registration rates and dialogue with government
- Legislation regarding public sector's right to freedom of association and collective bargaining
- Protection of migrants against forced labour
- Child labour rates in the formal sector
- Legislative efforts regarding discrimination

Challenges

- Potential use of specific legislative schemes to circumvent constitutional protections
- Social security coverage
- Resources and inspection's reach against forced labour
- Lack of comprehensive legislation and a National Plan against trafficking
- Persistence of stereotypes against women, indigenous persons and migrants

Key context

Ecuador underwent a stable period of growth from 2006 to 2014, mainly due to high oil prices. With decreasing oil prices, a stronger dollar, and the earthquake in 2016, which devastated the country, Ecuador is currently facing an economic crisis. The current administration has been forced to reduce public spending, impose temporary measures to increase revenue sources other than oil, and restrict imports.

Since 2017, the current administration has been implementing measures to improve rule of law in Ecuador. These measures include reinstating presidential term limits that had been eliminated in 2015, denying access to public office by persons convicted of corruption, and strengthening restrictions on mining and oil operations to be developed in protected areas and indigenous territories. Ecuador has also taken steps to strengthen human rights protections, implement a consultation mechanism with indigenous peoples, and introduce measures to tackle discrimination based on sexual orientation and gender identity.

Freedom of association and collective bargaining

Union formation is accelerating under the new administration, with 52 new unions registered since 2017 and notable government efforts to streamline the registration process, including through online registrations. Trade unions had noted the denial of registration as a concern in the past, including through a case before the ILO Committee on Freedom of Association. The case involved governmental denial of a sector union based on minimum membership requirements that in practice constrain workers from small establishments' right to organise, a situation prevalent in the agriculture sector.

There has also been some legislative progress to allow public sector workers extend their right to organise and bargain collectively.

Despite these improvements, trade unions report that anti-union discrimination, including threats and dismissals persists, particularly in the banana and transportation sectors.

Forced labour

Ecuador has made improvements in combatting trafficking in persons, including creating of an inter-agency committee to prevent human trafficking, entering into cooperative agreements with neighbouring countries, adopting new legislation to penalise perpetrators and protect victims, particularly migrants, and carrying out awareness-raising campaigns.

Despite these improvements, the international observers note that Ecuador still lacks comprehensive legislation regulating human trafficking, the country's current action plan is out of date, and legal definitions of crimes in current law related to human trafficking and forced labour are complex, making prosecution cumbersome. Indigenous persons, Afro-Ecuadorians, migrants, and refugees are particularly vulnerable to forced labour.

Child labour

The National Council for Intergenerational Equality reports that child labour in the formal sector is declining and school attendance is rising, owing to a greater number of labour inspections and growing private sector efforts. However, child labour persists in the informal sector, where governmental and private sector initiatives do not extend. Children often work in agriculture - for example in the banana, sugarcane, rice and flower plantations - and engage in hazardous activities. Indigenous, Afro-Ecuadorian, and migrant and refugee children are particularly vulnerable to child labour because of poverty, discrimination, and lack of access to education.

Discrimination

Despite the adoption of wide-ranging legislation against discrimination and policies promoting inclusion in Ecuador, discrimination in employment against women, indigenous peoples, migrants and the LGBTI community is widespread. Afro-Ecuadorians report that societal stereotypes remain a barrier to employment opportunities. International organisations report that legal and policy efforts focus on eliminating gender violence, but do not address women's equality and empowerment. International observers also note that discrimination against foreign migrant workers is prevalent, and that male chauvinism, adult centrism, and racial discrimination impede access to employment.

Other working conditions

There are a number of challenges to the achievement of decent work and access to social security benefits in Ecuador. Primary among these challenges is the prevalence of underemployment and informality - with 47.5% of the population working in Ecuador's informal sector (GoE INEC, 2018). Another challenge is the high rate of poverty among young people. Although 94% of young people are employed, they work in low quality jobs that do not require qualifications. In 2017, the government took steps to address these challenges by adopting legislation to make labour contracts more flexible, allow for flexible schemes in certain sectors, and promote youth employment by reducing labour

and social security protections and providing incentives to employers to hire young people. Trade unions have opposed such laws and policies because of the impact they have on labour standards in Ecuador.

Occupational safety and health. Regulations on occupational safety and health do not apply to the informal sector, which employs a large percentage of the population. There are reports that employers sometimes dismiss workers who have suffered a workplace injury rather than provide them alternative employment, that occupational injuries have increased, and that establishments often do not comply with OSH regulations. The government reports advancement in the creation of a culture of occupational safety and health.

Working time. Trade unions have expressed concern about new forms of more flexible labour contracts introduced by the government in some economic sectors. While the stated purpose of the flexible labour contracts is to reduce employment in the informal sector, trade unions are concerned that they will erode labour standards in the country, including opposing legal provisions regarding working hours and rest periods.

Wages. Local media reports that the minimum wage is not adequate to cover basic living expenses. Trade unions report that workers in the banana, flower and shrimp sectors are paid less than the minimum wage.

Social security coverage. According to a government survey 58.2% of employees are not affiliated to a social security scheme (GoE INEC, 2018). The ILO has observed issues in the management of the social security system, such as non-payment of premiums and issues with the enrolment process, premium collection, and payment control. The ILO, unions, and employer organisations have all expressed concerns over the social security institute's deficit due to a reduction in contributions, with the ILO warning Ecuador in 2017 that a social security crisis is looming. The government is seeking to introduce a complete reform of the system, for which it has sought the technical assistance of the ILO.

Status of ratification and reporting

Ecuador has ratified all eight ILO fundamental (core) labour conventions without reservations. Ecuador has ratified three of the four ILO governance (priority) conventions, with the exception of C129 on Labour Inspection (Agriculture). Ecuador is currently up-to-date with its reporting obligations in relation to most of the fundamental and governance conventions. The only exception is the report in response to the C98 Direct Request for 2017. The ILO CEACR has repeated its request.

		Application issues - latest ILO CEACR observations and direct requests on core conventions
Freedom of association & collective bargaining	C87	(2018): Requested govt to ensure full respect for the rights of public servants to freedom of association and collective bargaining; engage in tripartite discussion to bring legislation into compliance with C87; reform labour legislation to allow for trade union pluralism in the public and private sectors and eliminate penalties that could potentially allow for the imprisonment of protesters; and remove administrative barriers to the registration of trade unions, noting

		<p>some progress on the matter in practice.</p> <p>(2018): Noted issues raised include the exclusion of some categories of public employees from the right to organise, limitations on public servants' right to strike, compulsory referral of collective labour disputes to arbitration, and noted progress regarding legal provisions extending the right to strike to trade union federations and confederations.</p>
	C98	<p>(2018): Noted issues raised include allegations of anti-union discrimination and dismissals in both the public and private sector (particularly in the banana industry), inadequate penalties for acts of anti-union discrimination and interference, the fact that anti-union discrimination is not prohibited in the recruitment and hiring phases and noted progress regarding the right to organise in the public sector.</p>
Forced Labour	C29	<p>(2015): Noted the adoption in 2014 of criminal penalties for labour exploitation, efforts to ensure that protection and assistance is provided to victims of forced labour, steps taken by Ecuador and neighbouring countries to ensure that migrant workers are protected from abusive working conditions and forced labour and noted a lack of clarity about prison labour and whether or not it is compulsory.</p>
	C105	<p>(2015): The sole issue raised relates to prison labour – how it is organised, whether or not it is voluntary, and what regulations govern the work of prisoners.</p>
Child labour	C138	<p>(2015): Noted the substantial number of children engaged in child labour and hazardous work despite national programmes to combat child labour, confirmation that the minimum age for employment had been raised from 14 to 15, low secondary school enrolment rates, and the need to ensure that children attend school at least until the age of 14.</p>
	C182	<p>(2015): Noted the implementation of new criminal penalties for sexual exploitation and trafficking of children, the adoption of a special system to protect victims of crimes (including children), efforts to prevent children from becoming engaged in trafficking and sexual exploitation, progress in rehabilitation and social integration of victims, and potential results of international cooperative efforts.</p> <p>(2015): Noted programmes to enhance protection for street children, elimination of trafficking and sale of children for begging, the need to ensure that indigenous children have access to bilingual education to prevent them from engaging in the worst forms of child labour, and the potential impact that Ecuador's ratification of the Domestic Workers' Convention (C189) may have on efforts to protect child domestic workers.</p>
Discrimination	C100	<p>(2016): Issues raised include the narrow definition of equal pay for equal work in Ecuador's Labour Code and occupational sex</p>

		<p>segregation in the labour market.</p> <p>(2016): Requested detailed statistical information about the gender pay gap, including remuneration levels for men and women in various occupational categories, disaggregated by colour and race. Other issues raised include promotion of equal pay for work of equal value performed by women and men in the public and private sectors, ongoing efforts to adopt objective job evaluation and wage schemes, and tripartite dialogue to give effect to the principle of equal pay for work of equal value.</p>
	C111	<p>(2016): Noted with interest the repeal of legal provisions that required women to obtain permission from their husbands too be members of family vegetable garden cooperatives. The Committee requested that the Labour Code be amended to address two issues: (1) direct and indirect discrimination in hiring, vocational training, and working conditions on all bases listed in C111; and (2) sexual harassment, including a requirement for employers to adopt prevention measures.</p> <p>(2016): Requested information about the employment and occupational impacts of the national equality policy and statistical data about labour market access of indigenous, Afro-Ecuadorian and Montubio women, women with disabilities, migrant women, and women refugees. It also noted actions taken to address discrimination based on HIV status and affirmative action to promote labour market access of Afro-Ecuadorian, indigenous and Montubio peoples.</p>

References

GoE INEC, 2018, [Encuesta Nacional De Empleo, Desempleo y Subempleo \(ENEMDU\), Indicadores Laborales.](#)

ILO CEACR, [Observations and Direct Requests for Ecuador.](#)