



# **Targeted Surveys on application of core labour standards Mongolia**

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

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**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](mailto:empl-d3-unit@ec.europa.eu)

European Commission  
B-1049 Brussels

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

2018

EU [Number] EN

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# Targeted Surveys on application of core labour standards, Mongolia

This report has been developed to provide a picture of the application of core labour standards in Mongolia. 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

- Adoption (pending) of revised Labour Code will bring national law much closer in line with all core conventions
- Government intent to ratify C81 and P29
- Ongoing efforts to eliminate worst forms of child labour  
Capacity building for inspectors, judiciary and social partners on range of CLS

## Challenges

- Widening gender pay gap and significant gaps in national non-discrimination laws  
Lack of clarity in child labour laws
- Inadequate services to reduce vulnerability to child labour and to protect trafficking victims
- Labour inspectorate is under-resourced, and legal restrictions on unannounced inspections
- No freedom of association for employers
- National social partners lack capacity, especially in relation to collective bargaining
- Limited prosecution for child labour offences
- No recent survey on child labour or gender discrimination in employment

## Key context

Mongolia's recent economic performance has improved dramatically with GDP growth increasing from 1.2% in 2016 to 6.1% in the first quarter of 2018. Although mining is an important source of income and exports, it is not a major employer. Agriculture and livestock remain an important source of employment in rural areas, where poverty rates are higher. The overall trend for poverty reduction in Mongolia is positive, although progress remains fragile; poverty increased sharply to 29.6% in 2016 as a result of the economic downturn. Labour market conditions have begun to improve since 2016, but unemployment remains at an estimated 8% in 2018. Precarious conditions characterise employment in the sizeable informal economy. The gender gap in labour force participation rates has more than doubled in the last twenty years.

Further structural challenges remain for the effective application of core labour standards in Mongolia. The impact of the 2016 economic and financial crisis took a toll on institutional capacities, especially in the areas of law enforcement and corruption. While labour inspection capacity remains a concern, and there remain restrictions on unannounced inspections, the government has indicated its intent to ratify C81 (though not C129). Efforts continue to build the capacity of institutions relevant to the application of – and reporting on – core labour standards, including a new phase of the EC-funded ILO GSP+ project. The EU-Mongolia Partnership and Cooperation Agreement (PCA)

entered into force on 1 November 2017. Mongolia continues to benefit from the EU GSP+ arrangement.

The ILO has identified a range of shortcomings in current labour legislation. The most recent draft amendments to the Labour Law are currently before Parliament (July 2018) and, when approved, would bring the Labour Law into closer alignment with the ILO fundamental conventions. The draft revised Labour Law also reportedly provides a definition of the 'employment relationship' that covers all employees and employers in both the formal and informal economy.

## **Freedom of association and collective bargaining**

Key legislative reforms are either in draft or scheduled. The draft revision to the Labour Law introduces a distinction between rights and interest disputes, setting out separate procedures for their resolution, and addresses aspects of C98 relating to government and employer interference in collective bargaining. The Ministry of Labour and Social Protection (MLSP) has also recognised the need to amend the 2001 Law on Trade Unions and to develop an analogue for employers' right of association.

In practice, laws providing for freedom of association and collective bargaining are generally enforced. However, some employers reportedly disrupt trade union activities and discriminate against members. In general, trade union representation of workers in the informal economy is limited, as well as among workers in smaller enterprises in the formal economy.

## **Forced labour**

The definition of forced labour in the current Labour Law is not aligned with C29 and C105 and is due to be amended in the draft revision to the Labour Law. The draft would also expressly prohibit employers from retaining workers' passports. The 2017 revision of the Criminal Code establishes forced labour as a criminal offence, punishable with a fine or imprisonment for up to 8 years. The government has signalled its intention to ratify P29.

In practice, there are concerns about forced labour of military conscripts and prisoners, and the treatment of victims of trafficking. Migrant workers may also be vulnerable to forms of exploitation tantamount to forced labour. There are some reports of forced labour – principally relating to document retention – in the SME sector.

## **Child labour**

Amendments to Mongolia's Labour Law came into force in September 2016 establishing a minimum wage for access to employment of 15 years. The 2017 revision of the Criminal Code established penal sanctions for engaging children in the worst forms of child labour. The current (2018) draft revisions to the Labour Law would bring further alignment with C138 and C183 with regard to: linking minimum age to compulsory schooling, employer record-keeping of workers aged under 18, individual permitting of exemptions from minimum age, and defining 'light work'.

In practice, it is reported that 10% of children aged 5 to 17 are engaged child labour in Mongolia, particularly in the agriculture sector, but also in forms of horse racing, construction, and mining. Hazardous work is reportedly common in construction and

mining. Data collection and monitoring of child labour pose significant problems, not least because employers are not (yet) required to keep a register of workers under 18 years. Penalties for engagement of child labour, though recently increased, reportedly remain an insufficient deterrent.

## Discrimination

The current draft amendments to the Labour Law will, if passed, close several gaps in national law compared to international standards: prohibiting discrimination on the basis of political opinion; aligning with the definition of sexual harassment in the Law on the Promotion of Gender Equality, incorporating prohibitions on both hostile environment and quid pro quo sexual harassment; requiring employers to introduce measures to prevent sexual harassment in the workplace; and including the principle of equal remuneration for men and women for work of equal value. All of these have been welcomed by the ILO CEACR.

In practice, discrimination in employment stems from inequalities that are entrenched in gendered relationships both inside and outside the workplace. Women's labour force participation lags well behind men, and there is marked gender-based occupational segregation both in terms of sectoral and seniority. The gender pay gap is a major concern and it is reportedly increasing, with women earning 14.3% less than men.

## Status of ratification and reporting

Mongolia has ratified all eight fundamental (core) conventions and two out of four governance (priority) conventions. It is up-to-date in all its reporting, marking positive progress on previous reporting cycles.

		<b>Application issues - latest ILO CEACR observations and direct requests on core conventions</b>
<b>Freedom of association &amp; collective bargaining</b>	C87	(2018): Repeated request for government to expedite adoption of law setting out legal status of employers, including independence of employers' organisations. Noted Labour Law restricts strikes to collective labour disputes, excluding strikes against public policy or sympathy strikes.
	C98	(2018): Requested government revise Labour Law, to ensure autonomy of bargaining agents. Noted right to collective bargaining should include civil servants not engaged in State administration.
<b>Forced labour</b>	C29	(2017): Requested government clarify conditions under which career members of armed forces may leave service during peacetime and number of resignations accepted or refused. Requested government provide information on application of Resolution No. 107 establishing 'Mongolian conscripts for reconstruction' project. Requested further information on prisoners' work for private companies, conditions on imposing unpaid work in lieu of imprisonment and institutions entitled to use such labour.
	C105	(2017): Requested government to indicate form of sanctions that may be applied for participation in unlawful strikes.

<b>Child Labour</b>	C138	<p>(2016): Requested government ensure draft Labour Law includes: legal protections include children working outside clearly defined employment relationship; provision linking minimum age for employment with age of compulsory schooling; provision regulating 'light work'. Requested government establish system of individual permits for under-15s working in activities such as artistic performances, and limit working hours.</p> <p>Requested government ensure draft Criminal Code contains dissuasive penalties for breach of children's rights and draft Labour Law requires employers to keep register of workers under 18.</p>
	C182	<p>(2016): Requested clarification of terms 'under-age persons' and/or 'minors' in legislation. Requested government provide information on child trafficking cases. Reiterated previous request for information about government policies for removing children in mining sector</p> <p>Urged government to eliminate employment of under-18s as horse jockeys, and to enforce safety regulations strictly.</p>
<b>Discrimination</b>	C100	<i>No specific application issues raised</i>
	C111	<p>(2018): Repeated request that government indicate measures to ensure public officials are protected against discrimination on grounds of political opinion. Requested government ensure retirement age reforms do not shorten working life of women in discriminatory manner. Requested government increase efforts to deal with sexual harassment at work and ensure new Labour Law covers both quid pro quo and hostile environment sexual harassment.</p> <p>Requested government review overly broad provisions allowing sex-specific recruitment.</p>

## References

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