



DECENT WORK CHECK

D.R CONGO 2023

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WageIndicator Foundation - www.wageindicator.org

WageIndicator started in 2001 to contribute to a more transparent labour market for workers and employers by publishing easily accessible information on a website. It collects, compares and shares labour market information through online and face-to-face surveys and desk research. It publishes the collected information on national websites, thereby serving as an online library for wage information, labour law, and career advice, both for workers/employees and employers. The WageIndicator websites and related communication activities reach out to millions of people on a monthly basis. The WageIndicator concept is owned by the independent, non-profit WageIndicator Foundation, established in 2003. The Foundation has offices in Amsterdam (HQ), Ahmedabad, Bratislava, Buenos Aires, Cape Town, Islamabad and Venice.

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INTRODUCTION

Decent Work is the type of work for which all of us aspire. It is done under conditions where people are gainfully employed (and there exist adequate income and employment opportunities); social protection system (labour protection and social security) is fully developed and accessible to all; social dialogue and tripartism are promoted and encouraged; and rights at work, as specified in ILO Declaration on Fundamental Principles and Rights at Work and Core ILO Conventions, are practised, promoted and respected.

WageIndicator Foundation has been working, since late 2007, to raise awareness on workplace rights through a unique tool, i.e., **Decent Work Check**. The Decent Work Check considers different work aspects deemed necessary in attaining “decent work”. The work makes the abstract Conventions and legal texts tangible and measurable in practice.

The Decent Work Check employs a double comparison system. It first compares national laws with international labour standards and scores the national regulations (happy or sad face). If national regulations in a country are not consistent with ILO conventions, it receives a sad face and its score decreases (and vice versa). It then allows workers to compare their on-ground situation with national regulations. Finally, workers can compare their personal score with national score and see whether their working conditions are consistent with national and international labour standards. The Check is based on de jure labour provisions, as found in the labour legislation.

A Decent Work Check is beneficial both for employees and employers. It gives them knowledge, which is the first step towards any improvement. It informs employees of their rights at the workplace while simultaneously enlightening employers about their obligations. Decent Work Check is also helpful for researchers, labour rights organisations conducting surveys on the situation of rights at work and the general public wanting to know more about the world of work. For example, WageIndicator teams worldwide have found out that workers, small employers and even labour inspectors are not, sometimes, fully aware of the labour law. When you are informed – being a worker, self-employed, employee, employer, policymaker, labour inspector – there is a greater possibility that you ask for your rights (as a worker), you comply with rules (as an employer), and you strive to enforce these (as a labour inspector).

The work is relevant to the challenges posed to the future of work, especially the effective enforcement of legislation in financially constrained states, a rise in precarious employment and analysing the impact of regulatory regimes.

In 2023, the team aims to include at least 15 more countries, thus taking the number of countries with a Decent Work Check to 125!

MAJOR LEGISLATION ON EMPLOYMENT AND LABOUR

1. Constitution of the Democratic Republic of the Congo as revised by Law No. 11/002 of January 20, 2011 revising the Constitution of the Democratic Republic of the Congo of February 18, 2006
2. Labour Code, 2002
3. Law No. 15/013 of 1st August 2015 on the implementation of women's rights and parity.
4. Order No. 14-010 of May 14, 2014 establishing the list of legal holidays in the Democratic Republic of Congo
5. Ministerial Order No. 12/CAB-MIN/ETPS/038/08 of August 8, 2008 on the provisional prohibition of mass dismissal of workers by labour inspectors.
6. Ministerial Order No. 12/CAB-MIN/ETPS/116/2005 of October 26, 2005 setting the terms and conditions for the dismissal of workers.
7. Ministerial Order No. 12/CAB.MIN/TPS/117/2005 of October 26, 2005 setting the duration and conditions for notice.
8. Ministerial Order No. 12/CAB.MIN/TPSI/045 /08 of 08 August 2008 setting the working conditions of children.
9. Decree No. 18/017 of May 22, 2018 setting the guaranteed interprofessional minimum wage, the minimum family allowances and the equivalent value of housing.
10. Ministerial Order No. 12/CAB.MIN/TPS /114/2005 of October 26, 2005 prohibiting sexual or moral harassment in the performance of an employment contract

The text in this document was last updated in April 2023. For the most recent and updated text on Employment & Labour Legislation in Democratic Republic of Congo in French, please refer to: <https://votresalaire.org/congo/>

01/13 WORK & WAGES

ILO Conventions

Minimum wage: Convention 131 (1970)

Regular pay & wage protection: Conventions 95 (1949) and 117(1962)

DRC has ratified all the above-mentioned Conventions.

Summary of Provisions under ILO Conventions

The minimum wage must cover the living expenses of the employee and his/her family members. Moreover, it must relate reasonably to the general level of wages earned and the living standard of other social groups. Wages must be paid regularly on a daily, weekly, fortnightly or monthly basis.

Regulations on work and wages:

- Labour Code of the Democratic Republic of Congo, 2002;
- Decree No. 079/2002 of July 3, 2002 determining the modalities for setting and adjusting the guaranteed interprofessional minimum wage, minimum family allowances and the equivalent value of housing;
- Decree No. 18/017 of May 22, 2018 setting the guaranteed interprofessional minimum wage, the minimum family allowances and the equivalent value of housing; Decree No. 18/017 of May 22, 2018 setting the guaranteed interprofessional minimum wage, the minimum family allowances and the equivalent value of housing
- Ministerial Order No. 12/CAB.MIN/ETPS/042 of August 08, 2008 Establishing the model of payroll and written statement of remuneration

Minimum Wage

In accordance with the Decree determining the methods for setting and adjusting the guaranteed interprofessional minimum wage, minimum family allowances and the equivalent value of housing, the guaranteed interprofessional minimum wage is understood to be the minimum sum set by the public authorities below which no worker may be paid under penalty of sanction.

A decree of the President of the Republic, issued on the proposal of the Minister of Labour and Social Security, after consultation with the National Labour Council, sets the guaranteed minimum interprofessional wages and the rates of minimum family allowances, and in the

absence of collective agreements or in their absence, the minimum wages per professional category.

The setting and adjustment of interprofessional minimum wages takes into account the worker's essential needs, the cost of living, the general level of wages and the general economic situation. The adjustment of the SMIG is entrusted to a Tripartite Commission set up within the Ministry of Labour and Social Security, which meets at the beginning of each year to evaluate the SMIG. The same commission is also responsible for monitoring the application of the SMIG.

The recent revision of the minimum wage dates from 2018 and the rate has been set at 7,075 Congolese francs. The mission of ensuring the application and respect of the legal provisions relating to wages and general working conditions is the responsibility of the Labour Inspectorate.

For those who violate the provisions relating to minimum wages, the law provides for a monetary penalty not exceeding 20,000 constant F.C. for this purpose.

Sources: §3, 4 and 10 of Decree no. 079/2002 of July 3, 2002 determining the methods for setting and adjusting the guaranteed interprofessional minimum wage, minimum family allowances and the equivalent value of housing; §2 and 10 of Decree no. 18/017 of May 22, 2018 setting the guaranteed interprofessional minimum wage, minimum family allowances and the equivalent value of housing; §87-97 & 321 of the Labour Code, 2002.

Regular Pay

In accordance with the Labour Code, salaries must be paid regularly in cash during working hours, at the agreed time and place and in legal tender. The amount of remuneration cannot be less than the guaranteed minimum interprofessional wages and is determined by the hour, day, week or month, by the piece or by the task.

Monthly payments must be made no later than six days following the period to which it relates. It is also the employer's responsibility to pay the agreed salary, regularly and punctually, in an interval not exceeding one month.

In the event of definitive termination of services, unpaid wages are paid to the worker no later than two working days following the date of termination of services.

The payment of all or part of the wages in kind is prohibited.

The employer is also prohibited from restricting in any way the worker's freedom to dispose of his or her wages as he or she sees fit. Workers are entitled to wages without any deductions and/or reductions resulting in direct or indirect payments by the employer. Wages that are due to workers in the event of bankruptcy or judicial liquidation must be paid in full before other creditors claim their share. On each payday, the employer must provide all workers with a written pay slip of the wages paid.

Payments must be recorded on their date in a payroll book issued to the worker at the time of payment.

Sources: §98-103 and 110-112 of the Labour Code, 2002; §2 of Ministerial Order No. 12/CAB.MIN/ETPS/ 042 of August 8, 2008, establishing the model payroll book and written statement of remuneration

02/13 COMPENSATION

ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

DRC has not ratified any of the above-mentioned Conventions.

Summary of Provisions under ILO Conventions

Working overtime is to be avoided. Whenever it is unavoidable, extra compensation is at stake - minimally the basic hourly wage plus all additional benefits you are entitled to. In accordance with ILO Convention 1, overtime pay rate should not be less than one and a quarter time (125%) the regular rate.

Night work means all work which is performed during a period of not less than seven (07) consecutive hours, including the interval from midnight to 5 a.m. A night worker is a worker whose work requires performance of a substantial number of hours of night work which exceeds a specified limit (at least 3 hours). Convention 171 requires that night workers be compensated with reduced working time or higher pay or similar benefits. Similar provisions are found in the Night Work Recommendation No. 178 of 1990.

If a worker has to work on a national/religious holiday or a weekly rest day, he/she should be entitled to compensation. Not necessarily in the same week, provided that the right to a paid compensation is not.

If a worker has to work during the weekend, he/she should thereby acquire the right to a rest period of 24 uninterrupted hours instead. Not necessarily in the weekend, but at least in the course of the following week. Similarly, if a worker has to work on a public holiday, he/she must be given a compensatory holiday. A higher rate of pay for working on a public holiday or a weekly rest day does not take away the right to a holiday/ rest.

Regulations on compensation:

- Law n° 16/010 of July 15, 2016 amending and supplementing Law n° 015-2002 on the Labour Code;
- Ministerial Order 68/11 of May 17, 1968 relating to the remuneration of overtime. (Ministry of Labour and Social Security)
- Ministerial Order No. 12/CAB.MIN/TPSI/045 /08 of August 8, 2008 establishing the conditions of child labour.
- Ministerial Order 68/14 of May 17, 1968 on the remuneration of night work. (Ministry of Labour and Social Security)
- Ministerial Order 68-12 of May 17, 1968 on Weekly Rest - Labour Regulations

Overtime compensation

In accordance with the Labour Code, the legal working hours of employees or workers may not exceed forty-five hours per week and eight hours per day. Hours worked in excess of the legal working hours are considered as overtime and entitle the employee to a salary increase.

For children under the age of 18, working hours are set at 8 hours of actual work per day. When the actual working time exceeds 4 hours per day, it must be interrupted by one or more rest periods, the total duration of which may not be less than one hour.

In the event of an emergency or an extraordinary work situation, overruns of the legal working hours are authorized for preparatory or complementary work that must necessarily be carried out outside the limit assigned to the general work of the establishment, provided that their execution outside this limit is indispensable

to avoid serious hindrance to the normal operation of the establishment.

Moreover, the duration of the effective daily work may be extended beyond the legal duration in case of urgent work whose immediate execution is necessary to prevent imminent accidents, to organize rescue measures or to repair the effects of accidents occurring either to the equipment, the installations or the buildings of the establishment.

Finally, in order to cope with extraordinary work overloads, the effective daily working hours may be extended on an exceptional and temporary basis within the maximum limits of 12 hours per week and 144 hours per year.

If a person works beyond the stipulated working hours, that is, 8 hours a day and 45 hours a week, he/she is entitled to overtime pay according to the following schedule:

- a) 30% for each of the first six hours worked beyond the stipulated weekly working time or the time considered equivalent;
- b) 60 % for each of the following hours;
- c) 100% for each hour of overtime worked on the weekly rest day.

Sources: §119 of Law No. 16/010 of July 15, 2016 amending and supplementing Law No. 015-2002 on the Labour Code; §5 of Ministerial Order No. 12/CAB.MIN/TPSI/045/08 of August 8, 2008 establishing the conditions of work for children; §4, 14, 18, 19, 20 and 21 of Ministerial Order 68/11 of May 17, 1968 on the remuneration of overtime (Ministry of Labour and Social Security)

Night Work Compensation

In accordance with the Labour Code, night work is that performed between 7 p.m. and 5 a.m. Thus, the employer is obliged to make the payment with a surcharge for night workers. Pursuant to Ministerial Order 68/14 of May 17, 1968, workers employed in a job which, by its nature, can only be performed at night, benefit from a 10% increase in their wages. Likewise, any hour of work performed at night in establishments which, by their nature, have an activity usually performed during the day and during the night or part of it, gives rise to a 25% increase in salary. While for an hour of work performed at night under conditions other than those referred to in the preceding lines, gives rise to an increase in salary of 30%.

As to whether the law requires the employer to provide compensation for night work or provides for the reduction of working hours, the law is silent on this issue.

Sources: §124 of the Labour Code, 2002; §4, 5 and 6 of Ministerial Order 68/14 of 17 May 1968 on the remuneration of night work. (Ministry of Labour and Social Security).

Compensatory Holidays / Rest Days

Pursuant to Ministerial Order 68-12 of May 17, 1968 on Weekly Rest - Labour Regulations, there are categories of establishments in which workers may be employed on the weekly rest day and on public holidays. This is also the case for personnel employed in agricultural enterprises; personnel employed in the operation of driving machines, in the cleaning of premises and generally in all

maintenance work; the work of guards and sentries; and finally, domestic personnel who may be employed on Sundays, subject to a compensatory rest on another day of the week.

Nevertheless, compensatory rest for work performed during the holiday is only permitted for workers employed in agricultural establishments and enterprises, while for personnel intervening in cases of force majeure or urgent work to be performed at the facilities, in the event of prevention of loss of perishable goods or to respond to extraordinary work overloads, personnel are employed a maximum of twelve times a year without compensatory rest. However, hours worked in this capacity are considered overtime and are compensated as such.

In accordance with the Labour Code, every worker enjoys a rest period of at least twenty-four consecutive hours in each seven-day period. This rest is granted as much as possible at the same time to all personnel and is, in principle, granted on Sunday, subject, however, to the possibility that collective agreements may provide for special favorable conditions.

Source: §121 of Law No. 16/010 of July 15, 2016 amending and supplementing Law No. 015-2002 on the Labour Code; §4-10 of Ministerial Order 68-12 of May 17, 1968 on Weekly Rest - Labour Regulations.

Weekend / Public Holiday Work Compensation

Workers may be required to work on the weekly day of rest and on public holidays. This means that work performed under these conditions is considered overtime and results in a 100% pay increase for each

hour of overtime worked on the weekly rest day.

Sources: §21 of Ministerial Order 68/11 of May 17, 1968 on overtime pay. (Ministry of Labour and Social Security)

03/13 ANNUAL LEAVE & HOLIDAYS

ILO Conventions

Convention 132 (1970) on Holidays with Pay Convention
Conventions 14 (1921), 47 (1935) and 106 (1957) for weekly rest days.
In addition, for several industries, different Conventions apply.

DRC has ratified the Convention 14 only.

Summary of Provisions under ILO Conventions

An employee is entitled to at least 21 consecutive days of paid annual leave. National and religious holidays are not included. Collective agreements must provide at least one day of annual leave on full remuneration for every 17 days on which the employee worked or was entitled to be paid.

A worker should be entitled to paid leave during national and officially recognized public holidays.

Workers should enjoy a rest period of at least twenty-four consecutive hours in every 7-day period, i.e., a week.

Regulations on annual leave and holidays:

- Labour Code of the Democratic Republic of Congo, 2002
- Order No. 14/010 of May 14, 2014 establishing the list of legal holidays in the Democratic Republic of Congo
- Law n° 16/010 of July 15, 2016 amending and supplementing Law n° 015-2002 on the Labour Code

Paid Holidays / Annual Leave

Under the Labour Code, the employer is required to grant paid annual leave to the worker and the worker may not waive it under any circumstances. The worker may only take this leave after one year of service with the same employer has elapsed. The duration of annual leave increases by one working day for every five years of seniority with the same employer or the substituted employer.

It is at least one working day per full month of service for workers over the age of eighteen, and at least one and a half working days per full month of service for workers under the age of eighteen. Consequently, the worker may only be able to accumulate half of the leaves for a period of two years.

It should also be noted that during the entire period of leave, the worker is entitled to an allowance equal to the remuneration he/she enjoys at the time of departure on leave. The employer is also obliged to pay the cash equivalent of the benefits in kind, except only for housing. The leave allowance must be paid at the time of actual departure on leave and no later than the last working day before departure on leave.

Entitlement to payment for occasional leave is granted only up to a maximum of fifteen working days per year. The payment of compensation in lieu of the leave shall only take place in the event of termination of the contract, regardless of when this occurs. Thus, the payment of this indemnity must be made within two working days following the end of the contract.

Source: §140, 141, 142, 144, 145 and 146 of the Labour Code, 2002.

Pay on Public Holidays

Workers are entitled to paid vacations during public and religious vacations. There are generally nine such workers. These are set as follows: January 1, New Year's Day; January 4, Independence Martyrs; January 16, National Hero Day Laurent Désiré KABILA; January 17, National Hero Day Patrice Emery LUMUMBA; May 1, Labour Day; May 17, Revolution and Armed Forces Day; June 30, Independence Anniversary; August 1, Parents' Day; December 25, Christmas.

In the event that one of the legal holidays thus determined coincides with a Sunday, the vacation relating to that day shall be taken on the preceding day.

Sources: Order No. 14/010 of May 14, 2014 establishing the list of legal holidays in Democratic Republic of Congo

Weekly Rest Days

The Labour Code provides for 1 day of rest in every seven-day period. Workers are generally entitled to a rest period of at least 24 hours. The code also provides that this rest must be granted as much as possible,

at the same time, to all staff. In principle, it takes place on Sundays. However, collective agreements may provide for special favorable conditions.

Sources: §121 of Law No. 16/010 of July 15, 2016 amending and supplementing Law No. 015-2002 on the Labour Code, 2002

Weekly Rest Days

The weekly rest period is compulsory. It is at least 24 hours per week and should be taken in principle on Sunday, except where derogation is statutorily granted by the Minister in charge of Labour. However, establishments such as agricultural enterprises, manufacturers of food products destined to immediate consumption, hotels, restaurants and drinking places, tabacs, retirement houses, bathhouses, game houses, news houses, spectacle houses, and transportation companies are allowed to concede the weekly rest by rotation. The labour inspector usually determines if these industries correspond to the criteria.

In case it is decided that the simultaneous rest on Sunday of the whole staff can be prejudicial to the public or to the normal functioning of the establishment, the weekly rest period can be conceded, during the whole year or in certain time of the year only on:

- Another day other than Sunday to the whole staff;
- From Sunday noon until Monday noon to the whole staff;
- Sunday afternoon, with a compensatory rest day, by rotation;
- By rotation to part or to the whole staff.

These derogations however do not apply to young workers under the age of 18 and to working women.

Source: §155 of The Labour Act 2008; §02 & 07 of the Order no. 1244/FP.T/DGTLS, 1976, establishing the modalities of application of the weekly rest period; §55 of the Decree no. 2010-812/PRES/PM/MTSS 2010 on workers not covered by a collective agreement

04/13 EMPLOYMENT SECURITY

ILO Conventions

Convention 158 (1982) on employment termination

DRC has ratified the Convention 158.

Summary of Provisions under ILO Convention

The questions under this section measure the security or even flexibility or precariousness of an employment relationship. Although these are not clearly mentioned in a single convention (severance pay and notice requirement are provided in the Termination of Employment Convention No. 158) however, the best practices in the field require that employees be provided with a written contract of employment; workers on fixed term contracts should not be hired for tasks of permanent nature; a reasonable probation period (ideally lower than or equal to 6 months) may be followed to assess the suitability of an employee; a period of notice must be specified in an employment contract before severing the employment relationship; and workers be paid severance allowance on termination of employment relationship.

A contract of employment may be oral or written however workers should be provided with a written statement of employment at the start of their employment.

Fixed Term Contract workers must not be hired for permanent tasks as it leads to precarious employment.

A reasonable probation period must be allowed to let a worker learn new skills. A newly hired employee may be fired during probation period without any negative consequences.

A reasonable notice period, depending on the length of service of an employee, may be required before an employer may sever the employment relationship.

Employers may be required to pay a severance allowance on termination of employment (due to redundancy or any other reason except for lack of capacity or misconduct).

Regulations on employment security:

- Labour Code, 2002;
- Ministerial Order No. 12/CAB.MIN/TPS/117/2005 of October 26, 2005 setting the duration and conditions of notice;
- Ministerial Order No. 063/CAB/PVPM/ETPS/2011 of July 22, 2011 setting the terms and conditions for the renewal of fixed-term employment contracts.

Written Employment Particulars

The employment contract is any agreement, written or verbal, by which a person, the worker, undertakes to provide another person, the employer, with manual or other work under the direct or indirect direction and authority of the latter and in return for remuneration.

Employment contracts are concluded in writing and signed by each party except for the contracts of day labourers.

There are different types of employment contracts depending on their duration, the employer's activity or the nature of the work entrusted to the employee. A distinction is therefore made between fixed-term and open-ended employment contracts: a contract without an express clause on its duration is presumed to be open-ended. If the worker continues his services at the end of the fixed-term contract, it is automatically transformed into a contract of indefinite duration.

Every labour contract must include the following elements in particular : the nature and terms of the work to be performed; the name of the employer or the corporate name of the company; the

employer's registration number with the National Social Security Institute; the surname, first names and, if applicable, last name(s) and sex of the worker; the worker's affiliation number with the National Social Security Institute and, if applicable, the serial number assigned by the employer; the worker's date of birth; the worker's place of birth and nationality; the worker's family situation: - surname, forenames or surnames of the spouse; - surname, forenames or surnames and date of birth of each dependent child the amount of the remuneration and other benefits agreed upon; the place or places of execution of the contract; the duration of the employment; the duration of the notice of dismissal; the date of entry into force of the contract; the place and date of conclusion of the contract; the fitness for work duly certified by a physician.

Within a period not exceeding at least two working days prior to the signing of the contract, the employer is obliged to provide the worker with a copy of the draft contract and to make available to the worker all the essential documents to which it refers. If the employer refuses to fulfill this obligation, the worker has the right to terminate the contract within 30 days of its conclusion without notice or compensation.

The contract must contain provisions that are more favorable than those provided for by law and these provisions must not contradict the legislation and regulations in force. A clause granting less favorable benefits in an employment contract is considered null and void.

Source: §7, 37, 39, 41, 44-46 and 212 of the Labour Code, 2002.

Fixed Term Contracts

According to the Labour Code, any labour contract concluded for a fixed term must expressly state whether it is concluded for a fixed time, for a specific work, or for the replacement of a temporarily unavailable worker. In addition to this, the said contract must be established in writing, otherwise it is considered to have been concluded for a fixed term. Congolese labour legislation prohibits the hiring of workers under fixed-term contracts for tasks of a permanent nature.

In principle, a fixed-term contract may not exceed 24 months. However, this period is reduced to twelve months if the worker is married and separated from his family or if he is widowed, separated from bed and board or divorced and separated from his children for whom he must assume custody.

A fixed-term employment contract may not be concluded with the same employer more than twice, nor may it be renewed more than once, except in the case of the performance of work determined by order of the Minister of Labour and Social Security in the following circumstances its attributions, taken after advice from the National Labour Council. According to the Ministerial Order n°063/CAB/PVPM/ETPS/2011 of July 22, 2011 fixing the modalities of renewal of fixed-term employment contracts, the renewal of the contract more than once is only authorized in the case where the staff is hired specifically for the execution of the following works: seasonal work; work executed for the realization of works; work executed within the framework of a fixed-term program or project; work to be executed within the framework of

humanitarian activities; work to be executed on a part-time and temporary basis in addition to the working hours of an employee unable for one reason or another to work full-time; work to be executed provisionally while waiting for a holder already recruited; and finally, work to be executed in the event of a temporary increase in activity.

In the event that the worker continues his or her services after the expiration of the fixed-term contract, the contract will be converted into an open-ended work contract.

Source: §41-42 of the Labour Code, 2002; §2 of Ministerial Order No. 063/CAB/PVPM/ETPS/2011 of July 22, 2011 establishing the terms and conditions for the renewal of fixed-term employment contracts.

Probation Period

In accordance with the Labour Code, the trial period cannot exceed the time required to test the personnel in view of the technique and customs of the profession. Thus, the duration of the trial may not exceed one month for the worker without specialty and six months for other workers. If the trial clause provides for a longer period, it is automatically reduced to one month or six months, as the case may be. The extension of services beyond this maximum duration automatically entails confirmation of the employment contract.

In the event that the labour contract contains a trial clause, the Labour Code gives each party the option of terminating the contract with three working days' notice starting the day after the notification.

However, during the first three trial days,

the contract may be terminated without notice, with full remuneration due for any day started.

Source: §43 & 71 of the Labour Code, 2002

Notice Requirement

In accordance with the Labour Code, the termination of an open-ended labour contract without notice or without the notice period having been fully observed entails the obligation for the party responsible to pay the other party compensation in an amount corresponding to the remuneration and benefits of any kind that the worker would have received during the notice period that was not effectively observed. Therefore, the employment contract can be terminated at the initiative of either the employer or the worker. The open-ended contract can only be terminated at the initiative of the employer for a valid reason related to the worker's aptitude or conduct, while the fixed-term contract ends at the end of the term set by the parties. In the event of a clause providing for the termination of the fixed-term employment contract by notice, the said contract shall become null and void by operation of law and shall give rise to a claim for damages.

Likewise, the Labour Code provides for cases where the employer is required to pay a termination indemnity corresponding to the notice period due, in particular, either in the event of illness or accident, except in the case of a work accident or occupational disease, or in the case of exercising public mandates or civic obligations.

However, in the event of gross negligence, any employment contract may be

terminated immediately without notice.

In principle, the duration and conditions of the notice period are set by the Collective Agreement. However, in the absence of the latter, it is the Order of the Minister of Labour and Social Security that determines the period of notice required to terminate a contract. Thus, when the length of the termination notice period is given by the employer, the minimum notice period is set as follows:

- it may not be less than fourteen working days from the day following notification, for workers in categories 1 to 5. This period shall be increased by seven working days for each full year of continuous service, counted from date to date;
- for supervisors, the minimum notice period is set at one month. The notice period is increased by nine working days for each full year of continuous service from date to date;
- for workers in collaborative and executive management positions, the period of notice is set at three months. This period is increased by 16 working days for each full year of continuous service, counted from date to date.

If a worker wishes to terminate the employment contract, the period of notice is equal to half of the period of notice that the employer would have had to give if he had initiated the termination.

During the probationary period, either party may, for a valid reason related to the suitability or conduct of the other, terminate the contract upon three business days' notice commencing on the day following the notification.

However, during the first three trial days, the contract may be terminated without

notice, with full remuneration due for any day begun.

Source: §60, 63, 64, 69, 71-72 of the Labour Code, 2002; §62 of Law No. 16/010 of July 15, 2016 amending and supplementing Law No. 015-2002 on the Labour Code Labour Code, 2002; §6 – 8 of Ministerial Order No. 12/CAB.MIN/TPS/117/2005 of October 26, 2005 setting the duration and conditions of notice.

Severance Pay

In accordance with the French Labour Code, the employee may be dismissed without severance pay, without compensation in lieu of notice or compensation for paid leave, for gross negligence.

However, an employee with an open-ended contract who is dismissed without just cause is entitled to reinstatement and, failing this, he is entitled to claim damages set by the Labour Court, calculated taking into account, in particular, the nature of the services hired, the employee's seniority in the company, his age and the rights acquired in any capacity whatsoever. The amount of these damages not to exceed 36 months of his last remuneration.

As for collective dismissal, §2 of the Ministerial Order setting the terms of dismissal of workers provides that any mass dismissal is prohibited, except for derogations determined by the same Order.

Source: §63 & 72 of the Labour Code, 2002

05/13 FAMILY RESPONSIBILITIES

ILO Conventions

Convention 156: Workers with Family Responsibilities Convention (1981) Recommendation 165: Workers with Family Responsibilities (1981)

DRC has not ratified the Convention 156.

Summary of Provisions under ILO Convention

Paternity leave is for the new fathers around the time of childbirth and is usually of shorter duration.

Recommendation (No. 165) provides for parental leave as an option available to either parent to take long leave of absence (paid or unpaid) without resigning from work. Parental leave is usually taken once the maternity and paternity leave have been exhausted. For working parents, laws may define the portion of parental leave that has to be compulsorily taken by fathers or mothers.

Flexible Work Option for Parents / Work-Life Balance Recommendation 165 asks the employers to look into the measures for improving general working conditions through flexible work arrangements.

Regulations on family responsibilities:

- DRC Labour Code, 2002

Paternity Leave

There are no provisions for paternity leave in labour legislation. However, in exceptional cases, the worker is entitled to 2 working days of circumstantial leave when the wife gives birth. Payment for such leave is only due up to a maximum of 15 working days per year.

Source: §146 of the Labour Code, 2002.

Parental Leave

No provisions could be located in the law supporting parental leave for new parents after exhaustion of maternity leave.

Flexible Work Option for Parents / Work-Life Balance

No provisions could be located in the law supporting work-life balance for parents or workers with family responsibilities.

06/13 MATERNITY & WORK

ILO Conventions

An earlier Convention (103 from 1952) prescribed at least 12 weeks maternity leave, 6 weeks before and 6 weeks after birth. However, a later convention (No. 183 from year 2000) requires that maternity leave be at least 14 weeks of which a period of six weeks compulsory leave should be after childbirth.

DRC has not ratified any of the above-mentioned Conventions.

Summary of Provisions under ILO Convention

During pregnancy and maternity leave, a worker should be entitled to medical and midwife care without any additional cost.

During pregnancy and while breastfeeding, a worker should be exempt from work that might bring harm to you or your baby.

The total maternity leave should last at least 14 weeks.

During maternity leave, a worker's income should amount to at least two thirds of your preceding salary.

During pregnancy and maternity leave, a worker should be protected from dismissal or any other discriminatory treatment.

Workers have the right to return to same or equivalent position after availing maternity leave.

After childbirth and on re-joining work, a worker must be allowed paid nursing breaks for breast-feeding the child.

Regulations on maternity and work:

- DRC Labour Code, 2002;
- Law No. 15/013 of August 1, 2015 on the implementation of women's rights and parity;
- Ministerial Order 68/13 of May 17, 1968 on the working conditions of women and children; Ministerial Order 68/13 of May 17, 1968 on the working conditions of women and children;
- Law n° 16/009 of July 15, 2016 fixing the rules relating to the general social security system;
- Ministerial Order n° 146/CAB/MINETAT /MTEPS/01/2018 of November 10, 2018 setting the terms and conditions for the affiliation of employers, the registration of workers, the collection of contributions, the liquidation and service of benefits as well as the obligations incumbent on employers and workers; - Ministerial Order n° 16/009 of July 15, 2016 setting the rules relating to the general social security system

Free Medical Care

The labour code places the employer in charge of health care and maternity benefits for the worker and his family. To this end, in the event of illness, accident, pregnancy or childbirth, and even in the event of suspension of the contract due to force majeure, the employer is required to provide the worker and his family with the necessary medical care until the end of the contract.

A fortiori, the State shall guarantee to women, during pregnancy, childbirth and after childbirth, appropriate health care services at reduced cost, at reasonable distances and, where appropriate, free of

charge, as well as acquired socio-professional benefits.

Sources: §178 of the Labour Code, 2002; §14 of Law No. 15-013 of August 1, 2015 on the implementation of women's rights and parity.

No Harmful Work

The Labour Code prohibits the carrying, pushing or dragging of any load by pregnant women. This prohibition continues for four weeks after returning to work after childbirth. The Labour Inspector may require children, women, and persons with disabilities to be examined by a physician to verify that the work they are assigned to does not exceed their strength. The child, woman or person with a disability must be assigned to a suitable job. If this proves impossible, the contract must be terminated at the initiative of the employer with payment of compensation in lieu of notice.

Congolese labour laws also include provisions on work prohibited to women. These include work that may exceed women's strength, such as assigning women to regular manual transport of loads; carrying, dragging, or pushing, both inside and outside the usual place of work, loads that exceed maximum weights; employing women in transport on pedal-operated carrier vehicles; and dangerous or unhealthy work.

Source: §18-22 of Ministerial Order 68/13 of May 17, 1968, on working conditions for women and children; §137 of the Labour Code, 2002.

Maternity Leave

In accordance with the Labour Code, every woman has the right to suspend her work for fourteen consecutive weeks, including a maximum of eight weeks after the end of her delivery and six weeks before delivery. During this period, whether the child lives or not, the female employee is entitled to two-thirds of her remuneration as well as to the maintenance of contractual benefits in kind.

Source: §130 of the Labour Code, 2002.

Income

Maternity leave entitles the employee to two thirds of the remuneration as follows the maintenance of contractual benefits in kind. The right to maternity allowance is open to any insured woman or the spouse of an insured worker who gives birth to a child. In the case of multiple births, each birth is considered a separate maternity. However, payment of the maternity allowance is subject to the production of a certificate stating that the birth took place under medical supervision.

In addition to prenatal and maternity benefits, the insured woman also receives a daily allowance during maternity leave.

This allowance is granted for a period of fourteen weeks, six weeks before the expected date of delivery and eight weeks after, provided that the insured woman ceases all paid employment during the period of maternity leave. The amount of the maternity allowance is set at 72,900 CDF per birth.

However, in the case of additional rest justified by illness resulting from pregnancy

or childbirth and attested by a medical certificate, the daily allowance may be paid up to an additional period of three weeks (21 days). Thus, the daily allowance is equal to the entire average daily remuneration subject to contributions for the last three months. In concrete terms, the average daily pay is obtained by dividing by ninety the total of the contributory earnings received by the insured woman during the last three calendar months preceding the month in which the maternity leave took place.

Sources: §130 of the Labour Code, 2002; §43, 46, 48 and 63 of Law No. 16/009 of July 15, 2016 establishing the rules relating to the general social security system; §56 & 63 of Ministerial Order No. 146/CAB/MINETAT/MTEPS/01 /2018 establishing the terms and conditions for employer affiliation, worker registration, collection of contributions, liquidation and service of benefits, as well as the obligations incumbent on employers and workers.

Protection from Dismissals

Protection against dismissal during pregnancy and maternity leave is guaranteed by national labour laws.

It is prohibited to discriminate against workers on the basis of gender, including on the basis of marital status, family status, or, in the case of women, pregnancy.

During the pre-natal and post-natal period, which lasts 14 weeks, the employer may not terminate the employment contract. Therefore, the Labour Code provides that any pregnant woman whose condition has been medically diagnosed can terminate her employment contract without notice and without having to pay compensation

for breach of contract. The same faculty is granted to her for a period of eight weeks following the birth.

Sources: §129 & 130 of the Labour Code, 2002; §20 of Law No. 15/013 of August 1, 2015 on the implementation of women's rights and parity.

Right to Return to Same Position

There is no explicit provision in the Act that gives a worker the right to return to the same position after maternity leave. However, because the employer cannot terminate an employee during her maternity leave, it gives an implicit right to return to the same job.

Sources: §130 of the Labour Code, 2002

Breastfeeding

Female workers are entitled to paid breastfeeding breaks. When a woman breastfeeds her child, she is entitled, in any case, to two half-hour breaks per day to allow her to breastfeed. These rest periods are remunerated as working time.

Source: §132 of the Labour Code, 2002

07/13 HEALTH & SAFETY

ILO Conventions

Most ILO OSH Conventions deal with very specific Occupational Safety hazards, such as asbestos and chemicals.

Convention 155 (1981) is the relevant general convention here.

Labour Inspection Convention: 81 (1947)

DRC has ratified the Convention 81 only.

Summary of Provisions under ILO Conventions

The employer, in all fairness, should make sure that the work process is safe.

The employer should provide protective clothing and other necessary safety precautions for free.

Workers should receive training in all work-related safety and health aspects and must have been shown the emergency exits.

In order to ensure workplace safety and health, a central, independent and efficient labour inspection system should be present.

Regulations on health and safety:

- DRC Labour Code, 2002
- Ministerial Order n° 140/CAB/MINETAT /MTEPS/01/2018 fixing the modalities for the promotion of occupational risks of November 8, 2018;
- National Interprofessional Collective Labour Agreement of September 30, 1995 (Federation of Enterprises of Congo).

Employer Cares

Employers are directly responsible for the application of preventive occupational safety and health measures designed to ensure the protection of the workers they use. In some establishments, employers may form a safety and health committee in accordance with the provisions of the Order of the Minister having labour in his or her attributions.

The safety and health committee ensures compliance with safety and health regulations; detects risks to the health or safety of workers; studies the necessary preventive measures; and intervenes in the event of accidents.

Workers are required to comply strictly with the provisions of laws and regulations relating to occupational safety and health and with the instructions in the relevant internal regulations.

Sources: §160-167 of the Labour Code, 2002; §13 of Ministerial Order No. 140/CAB/MINETAT/MTEPS/01/2018 establishing the terms and conditions for the promotion of occupational hazards of November 8, 2018

Free Protection

The Labour Code does not contain any provisions requiring workers to comply with strict health and safety discipline and to use the devices prescribed by the employer or his representative. As for the employer, he is required to provide the worker with the equipment appropriate to the circumstances and nature of his work. However, there is no provision in the Labour Code requiring the employer to provide protective clothing or equipment free of charge to workers.

Source: §34 of the National Interprofessional Collective Labour Agreement of September 30, 1995 (Fédération des entreprises du Congo)

Training

Employers are required to provide all workers with appropriate education on safety, hygiene and workplace beautification. In addition to this, the Safety, Hygiene and Beautification Committee, in its role, develops and implements in its own areas, the means of propaganda and measures concerning the reception of workers, information and training for the prevention of accidents and occupational diseases.

Source: §164 of the Labour Code, 2002; §3, points 10&14 of the Ministerial Order No. 12/CAB.MIN/ETPS/ 043 /2008 of 08/08 establishing the conditions for the organization and functioning of committees for safety, hygiene and beautification of workplaces.

Labour Inspection System

The Labour Code provides for a system of Labour Inspection, and it was implemented by Decree No. 12/002 of January 19, 2012 establishing and organizing the General Labour Inspectorate (IGT). And with a view to implementing the reform of the General Labour Inspectorate, the government has established a revitalization commission that will proceed with the recruitment of new agents of the General Labour Inspectorate. The Expert Commission for the Application of Conventions and Recommendations deplores, however, that according to the annual inspection report for 2011, the lack of material and financial resources is contributing to the decline in the activities of the labour inspectorate. It also requests the government to continue to provide accurate information on the content and modalities of cooperation between employers' and workers' organizations and its impact on the application of ILO Convention No. 81.

The Labour Inspectorate is composed of inspectors who monitor workplaces and ensure compliance with the law and protection of workers. The Labour Code authorizes Labour Inspectors to enter the workplace during working hours without prior warning; to inquire or question a person; to request or take a copy of a book/record prescribed by labour legislation, file or other document; to take samples; and to examine, verify and investigate anything necessary for the performance of the inspection mission. The labour inspector may also require the employer to post notices as required by law. The Labour Inspector may call upon technical assistance from certain technicians from the administration or government agencies or any person

authorized by the Minister's order. They must treat as absolutely confidential the source of any complaint of a defect in the installation or a violation of the legal provisions and must not reveal to the employer or his representative that an inspection visit has been carried out as a result of a complaint. Labour Inspectors must not have any direct or indirect interest in the enterprises under their control.

Sources: §187-198 of the Labour Code, 2002

08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT

ILO Conventions

Convention 102 (1952), Conventions 121 (1964) and 130 (1969) concerning Social Security, Employment Injury Benefits and Medical Care and Sickness Benefits

DRC has ratified the Conventions 102 and 121 only.

Summary of Provisions under ILO Conventions

A worker's rights to work and income should be protected when illness strikes. The national labour law may provide that sickness benefit may not be paid during the first 3 days of your absence. Minimally, a worker should be entitled to an income during first 6 months of illness. This income should be at least 45 per cent of the minimum wage. (Countries are free to opt for a system which guarantees 60 per cent of the last wages during the first 6 months of illness or even during the first year). A worker must be entitled to paid sick leave.

During illness, a worker should be entitled to medical care without any additional cost. Employees and their family members should have access to the necessary minimal medical care at an affordable cost.

During the first 6 months of illness, a worker should not be fired.

If a worker is disabled due to an occupational disease or accident, he/she must receive a higher benefit. In the case of temporary or total incapacity/disability, a worker may at least be provided 50% of his average wage while in the case of fatal injury, the survivors may be provided with 40% of the deceased worker's average wage in periodical payments.

Regulations on sick leave & Employment Injury Benefits:

- Labour Code, 2002
- Law n° 16/009 of July 15, 2016 establishing the rules relating to the general social security system.

Income

The Labour Code provides for paid sick leave. When the worker is in a situation of inability to provide his services due to illness or accident, he retains the right, throughout the period of suspension of the contract, to two-thirds of the cash remuneration and to the totality of the family allowances. The maximum duration of sick leave is 6 months. Maternity benefits due in case of maternity leave is 100% of the employee's salary for up to 14 weeks, including up to 8 weeks after the expected date of delivery.

Sickness benefit is 66.7% of the employee's salary for up to 6 months.

Source: §105, 141 and 142 of the Labor Code, 2002; <https://www.issa.int/fr/node/195543?country=831>

Job Security

The employment of a sick worker is not preserved during his or her sick leave except in the case of a work accident or occupational disease. Indeed, the employment contract can be terminated in case of illness or accident. In this case, the employer notifies the worker of the termination of the contract after six uninterrupted months of inability to perform the contract.

Source: §60 littera a) of the Labor Code, 2002

Medical Care

The employer is required to provide the worker and his family, in the event of illness, with benefits related to medical, dental and surgical care, including medical examinations, X-rays, laboratory tests and analyses, pharmaceutical and hospitalization expenses.

Sources: §178 of the 2002 Labor Code; and §67 of Law No. 16/009 of July 15, 2016, establishing the rules for the general social security system.

Disability / Work Injury Benefit

In the event of temporary incapacity for work duly certified by the doctor appointed or approved by the public establishment, the victim is entitled to a daily indemnity for each day of incapacity, whether working or not, following that of the stoppage of work following the accident.

The indemnity is paid by the public institution for the entire period of incapacity to work prior to the recovery, consolidation of the injury or death of the worker.

Thus, the amount of temporary disability benefits is equal to 66.7% (33.3% if hospitalized and without dependents) of the average daily salary received by the insured during the three months preceding the incapacity, paid from the first day following the work accident or the beginning of the occupational disease until recovery or establishment of the permanent incapacity.

The degree of disability is periodically re-evaluated by a physician approved or appointed by the National Social Security Institute.

In the event of permanent incapacity duly ascertained by the doctor appointed or approved by the public institution, the victim is entitled to total permanent incapacity pensions of 85% of the average monthly salary for the three months preceding the incapacity.

The amount of the partial permanent disability pension is, depending on the degree of incapacity, proportional to that of the pension to which the victim would have been entitled in the event of total permanent incapacity.

The amount of the disability allowance is equal to three times the annual amount of the pension corresponding to the degree of disability of the insured person. If the insured's condition requires the constant assistance of a third party for the acts of daily life, 50% of the disability pension is paid. Benefits are paid quarterly.

When the accident at work results in the death of the victim, an allowance for funeral expenses is paid to the person who paid the burial expenses, within the limit of the expenses incurred and upon production of supporting documents.

The amount of this allowance payable to the widow/widower may not exceed 20% of the total disability pension to which the deceased was or would have been entitled. The surviving spouse's pension lapses in the event of remarriage. In this case, the surviving spouse is entitled to a single allowance equal to twelve times the monthly amount of the pension.

Survivors' pensions are calculated as a percentage of the retirement, disability or early retirement pension to which the insured was or would have been entitled at the date of death. The orphans' pension equivalent to 15% of the total disability pension to which the deceased was receiving or would have been entitled is payable for each unmarried orphan under 18 years of age (under 25 years of age for a student and without age limit in the case of a disabled child). The percentage allocated to orphans is doubled if there is no surviving spouse.

The total of the survivors' pensions must not exceed 100% of the insured's total disability pension.

For funeral allowances, the lump sum allocated must not exceed 90 times the guaranteed interprofessional minimum wage (SMIG).

Sources: §72, 73, 75, 77, 99 and 100 of Law No. 16/009 of July 15, 2016 establishing the rules relating to the general social security system;

<https://ww1.issa.int/fr/node/195543?count=831>

09/13 SOCIAL SECURITY

ILO Conventions

Social Security (minimum standards): Convention 102 (1952). For several benefits somewhat, higher standards have been set in subsequent Conventions
Employment Injury Benefits: Conventions 121 (1964),
Invalidity, Old age and survivors' benefits: Convention 128(1967)
Medical Care and Sickness Benefits: Convention 130 (1969)
Unemployment Benefits: Convention 168 (1988).

DRC has ratified the Conventions 102 & 121.

Summary of Provisions under ILO Conventions

In the normal circumstances, the pensionable age may not be set higher than 65 years of age. If retirement age is fixed above 65 years, it should give “due regard to the working ability of elderly persons” and “demographic, economic and social criteria, which shall be demonstrated statistically”. Pension can be set as a percentage of the minimum wage or a percentage of the earned wage.

When the breadwinner has died, the spouse and children are entitled to a benefit, expressed as a percentage of the minimum wage, or a percentage of the earned wage. This must at least be 40% of the reference wage.

For a limited period of time, the unemployed has a right to unemployment benefit set as a percentage of the minimum wage or a percentage of the earned wage.

Invalidity benefit is provided when a protected person is unable to engage in a gainful employment, before standard retirement age, due to a non-occupational chronic condition resulting in disease, injury or disability. Invalidity Benefit must at least be 40% of the reference wage.

Regulations on social security:

- Law n° 16/009 of July 15, 2016 establishing the rules relating to the general social security system.

Pension Rights

The Law provides that the right to the retirement pension starts at the age of sixty in favor of the insured who fulfills the conditions of having completed at least one hundred and eighty months, i.e. fifteen years of insurance and having ceased all salaried activity. The condition for granting the old-age pension is not to exceed 65 years of age (men), 60 years of age (women), or 55 years of age (men and women in case of premature aging), with at least 60 months of insurance during the last ten years.

The minimum monthly old age, disability or early retirement pension is forty percent (40%) of average monthly earnings.

If the number of months of insurance or assimilated months exceeds one hundred and eighty months, the percentage is increased by two percent for each period of insurance or assimilated period corresponding to twelve months.

The amount of the old-age pension, disability pension or early retirement pension is at least equal to fifty percent (50%) of the Guaranteed Minimum Interprofessional Wage, but not more than sixty percent (60%) of the average monthly remuneration.

Source: §82, 94 and 95 of Law No. 16/009 of July 15, 2016, establishing the rules relating to the general social security system.

Dependents' / Survivors' Benefit

The law provides that the survivor's pension is due in the event of the death of the holder of an old-age or disability pension or an early retirement pension; of the insured who, at the date of his death, was eligible for an old-age or disability pension; of the insured who had one hundred and eighty months of insurance.

Survivors' pensions are calculated as a percentage of the old-age or disability pension or early retirement pension to which the insured was or would have been entitled at the date of his death. Survivors' benefits are fifty percent (50%) to the surviving spouse and fifty percent (50%) to be shared equally among orphans. Payment of the children's pension is reserved for those of school age and limited to the age of twenty-five (25) for students. The percentage allocated to orphans is doubled if there is no surviving spouse.

Source: §97 & 100 of Law No. 16/009 of July 15, 2016 establishing the rules relating to the general social security system

Unemployment Benefits

According to the constitution of the Democratic Republic of the Congo, the state guarantees the right to work and protection against unemployment. However, there are no legal benefits in this regard in all of the country's labor laws.

Source: §36 of the Constitution, 2011

Invalidity Benefits

The law provides for the disability pension for the insured who becomes disabled

before reaching the age of admission to the old-age pension, provided that he can prove at least thirty-six months of insurance or assimilated periods during the last twenty calendar quarters immediately preceding the one in which he became disabled.

The insured must have been diagnosed with a permanent loss of earning capacity of more than 33%. There is no requirement for a minimum period of affiliation in the event of an accident of non-occupational origin.

The annual benefit is equal to 1.67% of the insured's average monthly salary in the last three years, multiplied by the number of months of contributions. The months from the beginning of the disability until the age of 55 are taken into account.

If the insured's condition requires constant assistance from a third party for the acts of daily life, a supplement for constant assistance equivalent to 50% of the disability pension is payable. Pensions are paid quarterly.

At the normal retirement age, i.e. at the age of 65, the disability pension lapses and is replaced by an old-age pension of the same amount, including the supplements for constant assistance.

The degree of disability is periodically assessed by a doctor approved by the National Social Security Institute.

Sources: §88 of Law No. 16/009 of July 15, 2016, establishing the rules for the general social security system; <https://ww1.issa.int/fr/node/195543?country=831>

10/13 FAIR TREATMENT

ILO Conventions

Convention 111 (1958) lists the discrimination grounds which are forbidden.

Convention 100 (1952) is about Equal Remuneration for Work of Equal Value.

Convention 190 (2019) is about elimination of violence and harassment in the world of work.

DRC has ratified both the Conventions 100 and 111.

Summary of Provisions under ILO Conventions

At workplaces, equal pay for men and women for work of equal value is a must, regardless of marital status. Pay inequality based on race, colour, sex, religion, political opinion, national extraction/place of birth or social origin is also forbidden. A transparent remuneration system and the clear matching of pay and position should be in place and to help prevent wage discrimination.

Convention No. 190 recognizes the right of everyone to a world of work free from violence and harassment. It defines violence and harassment as “a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment”. This definition covers physical abuse, verbal abuse, bullying and mobbing, sexual harassment, threats and stalking, among other things.

An employer can't discriminate against you on in any aspect of employment (appointment, promotion, training and transfer) on the basis of union membership or participation in union activities, filing of a complaint against an employer, race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, temporary absence due to illness, age, trade union membership, disability/HIV-AIDS, or absence from work during maternity leave. (Conventions 111, 156, 158, 159 and 183)

People have the right to work and there can't be occupational segregation on the basis of gender.

Regulations on fair treatment:

- The Constitution of the Democratic Republic of Congo, 2011;
- The Labor Code of the DRC, 2002;
- Ministerial Order No. 12/CAB.MIN/TPS/114/2005 of October 26, 2005 prohibiting sexual or moral harassment in the performance of a labor contract;
- Law No. 06/018 of July 20, 2006 amending and supplementing the Decree of January 30, 1940 on the Congolese Penal Code;
- Law No. 15-013 of August 1, 2015 on the implementation of women's rights and parity;
- Decree of June 13, 1960 - Discrimination in stores and other public places.

Equal Pay

Under the constitution of the Democratic Republic of the Congo, the state guarantees the right to work, protection against unemployment, and fair and satisfactory remuneration. The labor code provides that under equal conditions of work, professional qualification, and performance, wages are equal for all workers, regardless of their origin, gender, and age.

Source: §36 of the Constitution of the Democratic Republic of Congo; §86 of the Labor Code, 2002

Sexual Harassment

In accordance with the Labor Code, the employer or the worker commits a gross misconduct that allows the injured party to terminate the employment contract if one

of the parties is guilty of an act of impropriety, sexual or moral harassment, intimidation, assault or serious insults towards the other party.

Pursuant to Ministerial Order No. 12/CAB.MIN/TPS/114/2005 of October 26, 2005 prohibiting sexual or moral harassment in the performance of an employment contract, any act constituting sexual or moral harassment is prohibited in labor relations, including apprenticeship, hiring, remuneration, training, assignment, transfer, termination or renewal of the contract. Consequently, the law gives any person who is the victim of sexual or moral harassment the possibility of terminating his or her contract for gross negligence at the expense of the other party.

In addition, in accordance with the Penal Code, a person who is the author of sexual harassment is punished by penal servitude of one to twelve years and a fine of fifty thousand to one hundred thousand Congolese francs constant or one of these penalties only.

Source: §2 & 4 of Ministerial Order No. 12/CAB.MIN/TPS/114/2005 of 26 October 2005 prohibiting sexual or moral harassment in the performance of an employment contract; §174 d of Law No. 06/018 of July 20, 2006 amending and supplementing the Decree of January 30, 1940 on the Congolese Penal Code

Non-discrimination

The Labor Code guarantees everyone equal opportunity and treatment in employment and occupation, without any discrimination. Maternity cannot therefore constitute a source of discrimination in

employment. In addition, it provides workers with appropriate protection against all acts of discrimination tending to prejudice freedom of association in employment.

In accordance with the Constitution, all Congolese are equal before the law and are entitled to equal protection of the law, and no one may be discriminated against in education and access to public service or in any other matter, whether by law or by an act of the executive branch, on the basis of religion, family origin, social status, residence, political opinion or belief, race, ethnicity, tribe, cultural or linguistic minority.

In accordance with Law 15-013 of August 1, 2015, on the Implementation of Women's Rights and Parity, discrimination is any distinction, exclusion or preference based on race, color, sex, religion, political opinion, national descent or social origin that has the effect of destroying or altering equality of opportunity or treatment.

The law prohibits discrimination against workers on the basis of gender, including on the basis of marital status, family status, or, in the case of women, pregnancy. In general, the prohibition of discrimination applies to all harmful practices related to, among other things, hiring, assignment of work, working conditions, pay and other benefits, promotion, and termination of employment.

It is also prohibited by law to maintain, develop or cause to be maintained or developed any separate facilities, such as ticket counters, entrances, counters, etc., reserved for a specific race or ethnic group. And the penalty for these offences is penal servitude for a maximum of two months and a fine not exceeding five thousand

francs, or one of these penalties only. In the event of recidivism, the judge may order the closure of the establishment for a specified period, which may not exceed two months.

Sources: §12 & 13 of the Constitution of the Republic of Burundi; §3, 20, and 21 of Law No. 15-013 of 1 August 2015 on the Implementation of Women's Rights and Parity; §1-4 of the Decree of 13 June 1960 - Discrimination in Shops and Other Public Places - Approval of Ordinance-Law No. 25-491 of 1 October 1959 Prohibiting Discrimination in Shops and Other Public Places; §128 & 234 of the Labor Code, 2002

Equal Choice of Profession

In accordance with the constitution, no person shall be discriminated against in education, in access to public office or in any other matter, whether by law or by act of the executive branch.

Women's right to private initiative shall be guaranteed, and the State shall promote, without discrimination on the basis of sex, access to savings, credit, various opportunities, and new technologies.

The law prohibits all sexist stereotypes and clichés at all levels of education, including in educational materials, curricula, extracurricular and cultural activities, school counseling, career choice, advertising, and the audiovisual media.

However, the assignment of women to heavy work, night work in production work of industrial enterprises, underground work in mines and quarries is prohibited.

Sources: §13 of the Constitution; §8 of Law No. 15-013 of 1 August 2015 on the implementation of women's rights and

parity; §13, 18-21 of Ministerial Order 68/13 of 17 May 1968 on working conditions for women and children.

11/13 MINORS & YOUTH

ILO Conventions

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

DRC has ratified the Conventions 138 and 182.

Summary of Provisions under ILO Conventions

At workplaces, children may not be forced to perform work that could harm their health and hampers their physical and mental development.

All children should be able to attend school. Once this is safeguarded, there is no objection against children performing light jobs between the ages of 12 and 14. The general minimum age is 15 years however developing countries may set this at 14 years. The minimum age for hazardous work, work that is likely to jeopardize the health, safety or morals of young persons, is 18 years. It can also be set at a lower level of 16 years under certain circumstances

Children should not be employed in a work that is likely to harm the health, safety or morals of children. It is considered one of the worst forms of child labour. The minimum age for such hazardous work is 18 years.

Regulations on minors and youth:

- DRC Labour Code, 2002
- Ministerial Order No. 12/CAB.MIN/TPSI/045 /08 of August 8, 2008 establishing the conditions of child labour
- Ministerial Order 68/13 of May 17, 1968 on the working conditions of women and children
- Law No. 09/001 of 10 January 2009 on the protection of children

Minimum Age for Employment

The law sets the minimum age for employment at 16. Children between the ages of 16 and 18 are not allowed to work more than 8 hours per day, and a child aged 15 may only be hired or kept in service, even as an apprentice, with the express dispensation of the juvenile judge, after psycho-medical advice from an expert and the labour inspector. However, children between 14 and 16 years of age may be engaged in light and healthy work and work that does not adversely affect their physical or moral development, or does not harm their health or prejudice their attendance at school or their ability to benefit from the instruction given there. Children may not be employed in a company, even as apprentices, before the age of 15 years unless expressly exempted by the Labour Inspector of the jurisdiction and parental or guardianship authority. An exhaustive list of light work authorized for children under the age of 18 years is provided in the Ministerial Order No. 12/CAB.MIN/TPSI/045 /08 of August 08, 2008. Primary education is compulsory and free in public schools.

Sources: §6 and 133 of the Labour Code, 2002; §50 of Law No. 09/001 of January 10, 2009 on the protection of children; §5 and

17 of Ministerial Order No. 12/CAB.MIN/TPSI/045/08 of August 8, 2008 establishing working conditions for children; §24 of Ministerial Order 68/13 of May 17, 1968 on working conditions for women and children; §43 of the 2011 Constitution

Minimum Age for Hazardous Work

The minimum age for dangerous work is 18 years old. The labour code provides that children under the age of 18 and persons with disabilities may not work at night in public or private industrial establishments. Night and Sunday work is also prohibited for children under 18 years of age.

Ministerial Order 68/13 establishes a list of prohibited work for children under 18 years of age. There are two types of work: work that may exceed the children's strength, and dangerous or unhealthy work.

Sources: §125 of the Labour Code, 2002; §26-35 of Ministerial Order 68/13 of May 17, 1968 on working conditions for women and children

12/13 FORCED LABOUR

ILO Conventions

Forced labour: Conventions 29 (1930)

Abolition of Forced labour: Conventions 105 (1957)

Forced labour is the work one has to perform under threat of punishment: forfeit of wages, dismissal, harassment or violence, even corporal punishment. Forced labour means violation of human rights.

DRC has ratified both Conventions 29 & 105.

Summary of Provisions under ILO Conventions

Except for certain cases, forced or compulsory labour (exacted under the threat of punishment and for which you may not have offered voluntarily) is prohibited.

Employers have to allow workers to look for work elsewhere. If a worker is looking for work elsewhere, he/she should not be shortened on wages or threatened with dismissal. (In the reverse cases, international law considers this as forced labour).

If the total working hours, inclusive of overtime exceed 56 hours per week, the worker is considered to be working under inhumane working conditions.

Regulations on forced labour:

- The Labour Code of the DRC, 2002;
- Constitution of the Democratic Republic of Congo, 2011;
- Ministerial Order No. 12/CAB.MIN/TPSI/045 /08 of August 8, 2008 establishing the working conditions of children;
- Ministerial Order No. 12/CAB.MIN/TPS/117/2005 of October 26, 2005 setting the duration and conditions of notice.

Prohibition on Forced and Compulsory Labour

Forced labour is prohibited by the Congolese Labour Code. The prohibition also extends to any work or service that is exacted from an individual under threat of any penalty and for which the individual has not offered himself or herself voluntarily. Under the DRC constitution, no one may be required to perform forced or compulsory labour. The law further prohibits the employment of children in the worst forms of labour. These include all forms of slavery or similar practices, such as the sale and trafficking of children, debt bondage and serfdom, and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict. Anyone guilty of such an offense shall be punished by a term of penal servitude of up to six months and a fine of 30,000 F.C. constant.

Sources: §16 of the Constitution of the Democratic Republic of the Congo, 2011; §2 & 326 of the Labour Code, 2002; §8 of Ministerial Order No. 12/CAB.MIN/TPSI/045/08 of August 8, 2008 establishing the conditions of child labour

Freedom to Change Jobs and Right to Quit

The Labour Code provides that the employment contract can be terminated at the initiative of either the employer or the worker. The right to terminate the open-ended employment contract at the initiative of the worker is conditional on the notice being given to the employer. The length of the notice of termination to be given by the worker is equal to 7 days for labourers and highly skilled workers, and equal to one month for supervisors and 3 months for executives.

For more information on this subject, refer to the section on job security.

Sources: §61 & 64 of the Labour Code, 2002; §7-8 of Ministerial Order No. 12/CAB.MIN/TPS/117/2005 of October 26, 2005 establishing the duration and conditions of notice

Inhumane working conditions

Working hours may be extended beyond the normal working hours of 48 hours per week and eight hours per day. Under certain circumstances, workers may be required to work overtime.

For more information on this, please refer to the section on compensation.

Sources: §14-16 & 18 of Ministerial Order 68/11 of May 17, 1968, on overtime pay

13/13 TRADE UNION

ILO Conventions

Freedom of association and protection of the right to organize: Convention 87 (1948)

Right to Organize and Collective Bargaining: Convention 98 (1949)

DRC has ratified both Conventions 87 & 98.

Summary of Provisions under ILO Conventions

Freedom of association means freedom to join a trade union. This is part of the fundamental human rights. Employees may not be put at a disadvantage when they are active in the trade union outside working hours. The list of exclusions for sectors of economic activity and workers in an organization should be short.

Trade unions are entitled to negotiate with employers on term of employment without hindrance. The freedom of a trade union to negotiate with employers to try and conclude collective agreements is protected. (The ILO has a special procedure for handling complaints from unions about violation of this principle).

Workers have the right to strike in order to defend their social and economic interests. It is incidental and corollary to the right to organize provided in ILO convention 87.

Regulations on trade unions:

- The Labour Code of the DRC, 2002;
- The Constitution of the Democratic Republic of Congo, 2011;
- Ministerial Order No. 12/CAB.MIN/TPS/113/2005 of October 26, 2005 establishing the rights and obligations of the parties during the suspension of the employment contract;
- Circular Note n°12/CAB.MIN/ETPS/05/09 of August 14, 2009 relating to the procedural instructions for the use of the right to strike in the Democratic Republic of Congo to the Professional Organizations of Employers and Workers, Enterprises and Establishments of all kinds;
- Ministerial Order n° 038/CAB/MIN/ETPS/MBL/CNT/dag/2012 of November 19, 2012 amending and supplementing Ministerial Order n°12/CAB.MIN/ETPS/118/2005 of October 26, 2005 on the functioning of the National Labour Council (CNT)

Freedom to join and form a Union

The constitution and labour laws provide for freedom of association and allow workers and employers to join and form unions. This right is governed by the labour code. The constitution recognizes the right to form and join trade unions and the right to strike. The law may regulate the exercise of these rights and prohibit certain categories of persons from striking. In all cases, these rights are prohibited for members of national defense and security forces or for any public activity or service of vital national interest.

Trade unions are formed by workers to protect their labour rights. Union members

are free to elect their representatives and formulate their work program. They may draw up their own statutes and by-laws, provided that these are not contrary to the laws in force and to public order.

Trade unions must register with the Ministry of Labour and Social Security by filing their statutes and a list of the names of those responsible for the administration and management of the union. A trade union is registered by the Ministry of Labour and Social Security, and within three days of receiving the decision, the trade union sends a copy of its *Statut* of association to the Public Prosecutor's Office at the District Court in whose jurisdiction the trade union's headquarters are located. An employer is not allowed to interfere in the affairs of a trade union and to support a trade union that is under its control or that of an employers' organization.

Sources: §37 & 38 of the Constitution of the Democratic Republic of Congo, 2011; §230-250 of the Labour Code, 2002

Freedom of Collective Bargaining

The Labour Code recognizes the right to collective bargaining. A collective agreement is an agreement whose purpose is to regulate relations between the employer and employees in an establishment. A collective agreement generally contains provisions that are more favorable to workers than those in existing laws and regulations, but cannot derogate from public policy provisions. If a collective agreement contains provisions which are less favorable than those provided for by law, it cannot be applied.

A Collective Agreement may be concluded for a fixed or indefinite period. A fixed-term

agreement may not be denounced before the expiry of its term, whereas a Collective Agreement for an indefinite period expires at the will of one of the parties by serving a written notice. It must specify the length of the notice period, and failing this, it is set at three months. A Collective Agreement is signed by all the contracting parties and six additional originals are subject to the approval of the Labour Inspector of the jurisdiction, who may request the modification of clauses contrary to the legislation or regulations. If the text is in conformity, a copy of the agreement, bearing the Labour Inspector's visa, is deposited at the clerk's office of the Labour Court. It is sent to the Ministry of Labour and Social Security at the following address minus one copy for publication of the agreement in the "Journal Officiel". If the Collective Agreement is changed, the same procedure is followed again and it is compulsory to publish the revised Collective Agreement in the "Official Gazette". The publication is free of charge. The Collective Agreement is applicable from the day following its deposit, unless otherwise stipulated in the agreement.

The Labour Code provides for a National Labour Council, which is a tripartite consultative body with equal representation of government, employees and employers. It can be integrated into the broader bodies responsible for studying economic, financial and social problems. The employee and employer representatives on the Council are appointed by their most representative business organisations. The Council is responsible for giving opinions on draft laws, decrees and ministerial orders when they are intended to modify or create obligations or rights for workers and employers in labour or social security matters, studying all matters concerning

employment, labour, manpower and social security, studying the elements that may serve as a basis for determining the guaranteed inter-occupational minimum wage and its economic impact, issuing opinions and formulating proposals and resolutions on the regulations to be introduced in these matters. The National Labour Council shall meet twice a year, convened by its President or at the request of the Professional Organisations of Employers and Workers.

Source: §272-296 of the Labour Code, 2002; Art.1 - 3 and 7 of Ministerial Order No. 038/CAB/MIN/ETPS/MBL/CNT/dag/2012 of 19 November 2012 amending and supplementing Ministerial Order No. 12/CAB.MIN/ETPS/118/2005 of 26 October 2005 on the functioning of the National Labour Council (CNT).

Right to Strike

The right to strike is provided under the constitution and is regulated by the labour code. Only reasonable restrictions have been placed on the right to strike, such as the obligation to submit their dispute to the conventional conciliation or arbitration procedure beforehand and the obligation to provide minimum service during strike action.

The strike is the collective cessation of work or participation in such collective cessation of work in the event of a collective dispute over working conditions when it is of such a nature as to jeopardize the smooth running of the company or social peace, and this; once the means of settling the dispute, whether conventional or legal, have been regularly exhausted.

Peaceful strike action is only authorized

after all means of conflict resolution (conciliation and/or mediation) have failed. Use of the right to strike takes place after exhaustion of any of the conciliation and/or mediation procedures and the employer must be notified with 6 working days' notice before the proposed strike date. Workers who do not participate in the strike continue to work during the strike.

During the strike, the parties are required to strictly respect the restrictions and rights provided for in §6 to 12 of Ministerial Order No. 12/CAB. MIN/TPS/113/2005 of October 26, 2005 establishing the rights and obligations of the parties during the suspension of the labour contract, among others : The employer must, on his part, ensure health care for workers and members of his family, continue to provide housing for workers and members of his family, refrain from removing from the work premises, any machinery or any work instrument, inspect the installations in order to be informed and take the necessary measures for the maintenance of such equipment and instruments, refrain from replacing workers on strike by other workers in the company or service and ensure the minimum compulsory service and protection of the installations and production tools; and as for the workers, they must refrain from opposing the freedom to work for a non-striking worker because membership in a trade union or strike movement is free, from exercising acts of intimidation, threats and violence of any kind, from entering and remaining in the work premises, and from holding popular meetings within the company's precincts. The strikers' labour contract is suspended for the duration of the strike. Wages for days not worked are paid by the unions unless the reason for the strike is the generalized delay in the payment of wages attributable to the

company. A strike is considered illegal if it is contrary to these provisions.

Strikes are terminated by direct agreement between the disputing parties, by an arbitral award or by a court decision. Work must be resumed immediately and without further delay.

Source: §39 of the Constitution of the Democratic Republic of Congo, 2011; §303-315 of the Labour Code, 2002; Circular Note No. 12/CAB.MIN/ETPS/05/09 of August 14, 2009 on Procedural Instructions for the Use of the Right to Strike in the Democratic Republic of Congo for Professional Organizations of Employers and Workers, Enterprises and Establishments of All Kinds; §6-11 of Ministerial Order n°12/CAB.MIN/TPS/113/2005 of October 26, 2005 fixing the rights and obligations of the parties during the suspension of the labour contract; §3 of Ministerial Order n°12/CAB.MIN/ETPS/039/08 of August 08, 2008 fixing the rights and obligations of employers and workers, parties to a collective labour dispute

QUESTIONNAIRE

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Check

DecentWorkCheck DRC is a product of
wageindicator.org and votresalaire.org/congo/



National Regulation exists



National Regulation does not exist

01/13 Work & Wages

	NR	Yes	No
1. I earn at least the minimum wage announced by the Government		<input type="checkbox"/>	<input type="checkbox"/>
2. I get my pay on a regular basis. (daily, weekly, fortnightly, monthly)		<input type="checkbox"/>	<input type="checkbox"/>

02/13 Compensation

3. Whenever I work overtime, I always get compensation <i>(Overtime rate is fixed at a higher rate)</i>		<input type="checkbox"/>	<input type="checkbox"/>
4. Whenever I work at night, I get higher compensation for night work		<input type="checkbox"/>	<input type="checkbox"/>
5. I get compensatory holiday when I have to work on a public holiday or weekly rest day		<input type="checkbox"/>	<input type="checkbox"/>
6. Whenever I work on a weekly rest day or public holiday, I get due compensation for it		<input type="checkbox"/>	<input type="checkbox"/>

03/13 Annual Leave & Holidays

7. How many weeks of paid annual leave are you entitled to?*		<input type="checkbox"/> 1 <input type="checkbox"/> 2	<input type="checkbox"/> 3 <input type="checkbox"/> 4+
8. I get paid during public (national and religious) holidays		<input type="checkbox"/>	<input type="checkbox"/>
9. I get a weekly rest period of at least one day (i.e. 24 hours) in a week		<input type="checkbox"/>	<input type="checkbox"/>

04/13 Employment Security

10. I was provided a written statement of particulars at the start of my employment		<input type="checkbox"/>	<input type="checkbox"/>
11. My employer does not hire workers on fixed terms contracts for tasks of permanent nature <i>Please tick "NO" if your employer hires contract workers for permanent tasks</i>		<input type="checkbox"/>	<input type="checkbox"/>
12. My probation period is only 06 months		<input type="checkbox"/>	<input type="checkbox"/>
13. My employer gives due notice before terminating my employment contract (or pays in lieu of notice)		<input type="checkbox"/>	<input type="checkbox"/>
14. My employer offers severance pay in case of termination of employment <i>Severance pay is provided under the law. It is dependent on wages of an employee and length of service</i>		<input type="checkbox"/>	<input type="checkbox"/>

05/13 Family Responsibilities





15. My employer provides paid paternity leave <i>This leave is for new fathers/partners and is given at the time of child birth</i>		<input type="checkbox"/>	<input type="checkbox"/>
16. My employer provides (paid or unpaid) parental leave <i>This leave is provided once maternity and paternity leaves have been exhausted. Can be taken by either parent or both the parents consecutively.</i>		<input type="checkbox"/>	<input type="checkbox"/>
17. My work schedule is flexible enough to combine work with family responsibilities <i>Through part-time work or other flex time options</i>		<input type="checkbox"/>	<input type="checkbox"/>

06/13 Maternity & Work





18. I get free ante and post natal medical care		<input type="checkbox"/>	<input type="checkbox"/>
19. During pregnancy, I am exempted from nightshifts (night work) or hazardous work		<input type="checkbox"/>	<input type="checkbox"/>
20. My maternity leave lasts at least 14 weeks		<input type="checkbox"/>	<input type="checkbox"/>

* On question 7, only 3 or 4 working weeks is equivalent to 1 "YES".





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- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 21. | During my maternity leave, I get at least 2/3rd of my former salary |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. | I am protected from dismissal during the period of pregnancy
<i>Workers can still be dismissed for reasons not related to pregnancy like conduct or capacity</i> |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. | I have the right to get same/similar job when I return from maternity leave |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 24. | My employer allows nursing breaks, during working hours, to feed my child |  | <input type="checkbox"/> | <input type="checkbox"/> |





07/13 Health & Safety

- | | | | | |
|-----|--|---|--------------------------|--------------------------|
| 25. | My employer makes sure my workplace is safe and healthy |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 26. | My employer provides protective equipment, including protective clothing, free of cost |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 27. | My employer provides adequate health and safety training and ensures that workers know the health hazards and different emergency exits in the case of an accident |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 28. | My workplace is visited by the labour inspector at least once a year to check compliance of labour laws at my workplace |  | <input type="checkbox"/> | <input type="checkbox"/> |









08/13 Sick Leave & Employment Injury Benefits

- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 29. | My employer provides paid sick leave and I get at least 45% of my wage during the first 6 months of illness |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 30. | I have access to free medical care during my sickness and work injury |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 31. | My employment is secure during the first 6 months of my illness |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 32. | I get adequate compensation in the case of an occupational accident/work injury or occupational disease |  | <input type="checkbox"/> | <input type="checkbox"/> |

09/13 Social Security













- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 33. | I am entitled to a pension when I turn 60 |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 34. | When I, as a worker, die, my next of kin/survivors get some benefit |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 35. | I get unemployment benefit in case I lose my job |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 36. | I have access to invalidity benefit in case I am unable to earn due to a nonoccupational sickness, injury or accident |  | <input type="checkbox"/> | <input type="checkbox"/> |

10/13 Fair Treatment



- | | | | | |
|-----|--|---|--------------------------|--------------------------|
| 37. | My employer ensure equal pay for equal/similar work (work of equal value) without any discrimination |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 38. | My employer take strict action against sexual harassment at workplace |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 39. | I am treated equally in employment opportunities (appointment,promotion, training and transfer) without discrimination on the basis of:* |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Sex/Gender |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Race |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Colour |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Religion |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Political Opinion |  | <input type="checkbox"/> | <input type="checkbox"/> |

* For a composite positive score on question 39, you must have answered "yes" to at least 9 of the choices.




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	Nationality/Place of Birth		<input type="checkbox"/>	<input type="checkbox"/>
	Social Origin/Caste		<input type="checkbox"/>	<input type="checkbox"/>
	Family responsibilities/family status		<input type="checkbox"/>	<input type="checkbox"/>
	Age		<input type="checkbox"/>	<input type="checkbox"/>
	Disability/HIV-AIDS		<input type="checkbox"/>	<input type="checkbox"/>
	Trade union membership and related activities		<input type="checkbox"/>	<input type="checkbox"/>
	Language		<input type="checkbox"/>	<input type="checkbox"/>
	Sexual Orientation (homosexual, bisexual or heterosexual orientation)		<input type="checkbox"/>	<input type="checkbox"/>
	Marital Status		<input type="checkbox"/>	<input type="checkbox"/>
	Physical Appearance		<input type="checkbox"/>	<input type="checkbox"/>
	Pregnancy/Maternity		<input type="checkbox"/>	<input type="checkbox"/>
40	I, as a woman, can work in the same industries as men and have the freedom to choose my profession		<input type="checkbox"/>	<input type="checkbox"/>





11/13 Minors & Youth

41.	In my workplace, children under 15 are forbidden		<input type="checkbox"/>	<input type="checkbox"/>
42.	In my workplace, children under 18 are forbidden for hazardous work		<input type="checkbox"/>	<input type="checkbox"/>

12/13 Forced Labour

43.	I have the right to terminate employment at will or after serving a notice		<input type="checkbox"/>	<input type="checkbox"/>
44.	My employer keeps my workplace free of forced or bonded labour		<input type="checkbox"/>	<input type="checkbox"/>
45.	My total hours of work, inclusive of overtime, do not exceed 56 hours per week		<input type="checkbox"/>	<input type="checkbox"/>

13/13 Trade Union Rights

46.	I have a labour union at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
47.	I have the right to join a union at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
48.	My employer allows collective bargaining at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
49.	I can defend, with my colleagues, our social and economic interests through "strike" without any fear of discrimination		<input type="checkbox"/>	<input type="checkbox"/>

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Results

Your personal score tells how much your employer lives up to national legal standards regarding work. To calculate your DecentWorkCheck, you must accumulate 1 point for each YES answer marked. Then compare it with the values in Table below:



is your amount of "YES" accumulated.

DRC scored 44 times "YES" on 49 questions related to International Labour Standards

If your score is between 1 - 18

This score is unbelievable! Does your employer know we live in the 21st century? Ask for your rights. If there is a union active in your company or branch of industry, join it and appeal for help.

If your score is between 19 - 38

As you can see, there is ample room for improvement. But please don't tackle all these issues at once. Start where it hurts most. In the meantime, notify your union or WageIndicator about your situation, so they may help to improve it. When sending an email to us, please be specific about your complaint and if possible name your employer as well. Also, try and find out if your company officially adheres to a code known as Corporate Social Responsibility. If they do, they should live up to at least ILO standards. If they don't adhere to such a code yet, they should. Many companies do by now. You may bring this up.

If your score is between 39 - 49

You're pretty much out of the danger zone. Your employer adheres to most of the existing labour laws and regulations. But there is always room for improvement. So next time you talk to management about your work conditions, prepare well and consult this DecentWorkCheck as a checklist.