CONVENȚIA Nr. 103
CU PRIVIRE LA PROTECȚIA MATERNITĂȚII*
REVIZUITĂ LA GENEVA LA 28 IUNIE 1952

CONVENTION No. 103
CONCERNING MATERNITY PROTECTION
REVISED IN GENEVA ON JUNE 28, 1952

* *În vigoare pentru Republica Moldova din 14 februarie 1998*

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-fifth Session on 4 June 1952, and

Having decided upon the adoption of certain proposals with regard to maternity protection, which is the seventh item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts the twenty-eighth day of June of the year one thousand nine hundred and fifty-two, the following Convention, which may be cited as the Maternity Protection Convention (Revised), 1952.

Article 1

1. This Convention applies to women employed in industrial undertakings and in non-industrial and agriculture occupations, including women wage earners working at home.

2. For the purpose of this Convention, the term industrial undertaking comprises public and private undertakings and any branch thereof and includes particularly–

(a) mines, quarries, and other works for the extraction of minerals from the earth;

(b) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in shipbuilding, or in the generation, transformation or transmission of electricity or motive power of any kind;

(c) undertakings engaged in building and civil engineering work, including constructional, repair, maintenance, alteration and demolition work;

(d) undertakings engaged in the transport of passengers or goods by road, rail, sea, inland waterway or air, including the handling of goods at docks, quays, wharves, warehouses or airports.

3. For the purpose of this Convention, the term non-industrial occupations includes all occupations which are carried on in or in connection with the following undertakings or services, whether public or private:

(a) commercial establishments;

(b) postal and telecommunication services;

(c) establishments and administrative services in which the persons employed are mainly engaged in clerical work;

(d) newspaper undertakings;

(e) hotels, boarding houses, restaurants, clubs, cafŭs and other refreshment houses;

(f) establishments for the treatment and care of the sick, infirm or destitute and of orphans;

(g) theatres and places of public entertainment;

(h) domestic work for wages in private households; and any other non-industrial occupations to which the competent authority may decide to apply the provisions of the Convention.

4. For the purpose of this Convention, the term agricultural occupations includes all occupations carried on in agricultural undertakings, including plantations and large-scale industrialised agricultural undertakings.

5. In any case in which it is doubtful whether this Convention applies to an undertaking, branch of an undertaking or occupation, the question shall be determined by the competent authority after consultation with the representative organisations of employers and workers concerned where such exist.

6. National laws or regulations may exempt from the application of this Convention undertakings in which only members of the employer's family, as defined by national laws or regulations, are employed.

Article 2

For the purpose of this Convention, the term woman means any female person, irrespective of age, nationality, race or creed, whether married or unmarried, and the term child means any child whether born of marriage or not.

Article 3

1. A woman to whom this Convention applies shall, on the production of a medical certificate stating the presumed date of her confinement, be entitled to a period of maternity leave.

2. The period of maternity leave shall be at least twelve weeks, and shall include a period of compulsory leave after confinement.

3. The period of compulsory leave after confinement shall be prescribed by national laws or regulations, but shall in no case be less than six weeks; the remainder of the total period of maternity leave may be provided before the presumed date of confinement or following expiration of the compulsory leave period or partly before the presumed date of confinement and partly

following the expiration of the compulsory leave period as may be prescribed by national laws or regulations.

4. The leave before the presumed date of confinement shall be extended by any period elapsing between the presumed date of confinement and the actual date of confinement and the period of compulsory leave to be taken after confinement shall not be reduced on that account.

5. In case of illness medically certified arising out of pregnancy, national laws or regulations shall provide for additional leave before confinement, the maximum duration of which may be fixed by the competent authority.

6. In case of illness medically certified arising out of confinement, the woman shall be entitled to an extension of the leave after confinement, the maximum duration of which may be fixed by the competent authority.

Article 4

1. While absent from work on maternity leave in accordance with the provisions of Article 3, the woman shall be entitled to receive cash and medical benefits.

2. The rates of cash benefit shall be fixed by national laws or regulations so as to ensure benefits sufficient for the full and healthy maintenance of herself and her child in accordance with a suitable standard of living.

3. Medical benefits shall include pre-natal, confinement and post-natal care by qualified midwives or medical practitioners as well as hospitalisation care where necessary; freedom of choice of doctor and freedom of choice between a public and private hospital shall be respected.

4. The cash and medical benefits shall be provided either by means of compulsory social insurance or by means of public funds; in either case they shall be provided as a matter of right to all women who comply with the prescribed conditions.

5. Women who fail to qualify for benefits provided as a matter of right shall be entitled, subject to the means test required for social assistance, to adequate benefits out of social assistance funds.

6. Where cash benefits provided under compulsory social insurance are based on previous earnings, they shall be at a rate of not less than two-thirds of the woman's previous earnings taken into account for the purpose of computing benefits.

7. Any contribution due under a compulsory social insurance scheme providing maternity benefits and any tax based upon payrolls which is raised for the purpose of providing such benefits shall, whether paid both by the employer and the employees or by the employer, be paid in respect of the

total number of men and women employed by the undertakings concerned, without distinction of sex.

8. In no case shall the employer be individually liable for the cost of such benefits due to women employed by him.

Article 5

1. If a woman is nursing her child she shall be entitled to interrupt her work for this purpose at a time or times to be prescribed by national laws or regulations.

2. Interruptions of work for the purpose of nursing are to be counted as working hours and remunerated accordingly in cases in which the matter is governed by or in accordance with laws and regulations; in cases in which the matter is governed by collective agreement, the position shall be as determined by the relevant agreement.

Article 6

While a woman is absent from work on maternity leave in accordance with the provisions of Article 3 of this Convention, it shall not be lawful for her employer to give her notice of dismissal during such absence, or to give her notice of dismissal at such a time that the notice would expire during such absence.

Article 7

1. Any Member of the International Labour Organisation which ratifies this Convention may, by a declaration accompanying its ratification, provide for exceptions from the application of the Convention in respect of–

(a) certain categories of non-industrial occupations;

(b) occupations carried on in agricultural undertakings, other than plantations;

(c) domestic work for wages in private households;

(d) women wage earners working at home;

(e) undertakings engaged in the transport of passengers or goods by sea.

2. The categories of occupations or undertakings in respect of which the Member proposes to have recourse to the provisions of paragraph 1 of this Article shall be specified in the declaration accompanying its ratification.

3. Any Member which has made such a declaration may at any time cancel that declaration, in whole or in part, by a subsequent declaration.

4. Every Member for which a declaration made under paragraph 1 of this Article is in force shall indicate each year in its annual report upon the

application of this Convention the position of its law and practice in respect of the occupations or undertakings to which paragraph 1 of this Article applies in virtue of the said declaration and the extent to which effect has been given or is proposed to be given to the Convention in respect of such occupations or undertakings.

5. At the expiration of five years from the first entry into force of this Convention, the Governing Body of the International Labour Office shall submit to the Conference a special report concerning the application of these exceptions, containing such proposals as it may think appropriate for further action in regard to the matter.

Article 8

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 9

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

Article 10

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 2 of article 35 of the Constitution of the International Labour Organisation shall indicate –

a) the territories in respect of which the Member concerned undertakes that the provisions of the Convention shall be applied without modification;

b) the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;

c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;

d) the territories in respect of which it reserves its decision pending further consideration of the position.

2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservation made in its original declaration in virtue of subparagraph (b), (c) or (d) of paragraph 1 of this Article.

4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 12, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

Article 11

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 4 or 5 of article 35 of the Constitution of the International Labour Organisation shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications, it shall give details of the said modifications.

2. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.

3. The Member, Members or international authority concerned may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 12, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

Article 12

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an Act communicated to the Director-General of the International Labour Office for registration. Such denunciation should not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 13

1. The Director-General of the International Labour Office shall notify

all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 14

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 15

At such times as may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 16

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 12 above, if and when the new revising Convention shall have come into force;

b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 17

The English and French versions of the text of this Convention are equally authoritative.