

KEPUTUSAN PRESIDEN REPUBLIK INDONESIA

NOMOR 83 TAHUN 1998

TENTANG

PENGESAHAN CONVENTION (NUMBER 87) CONCERNING FREEDOM OF
ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANISE
(KONVENSI NOMOR 87 TENTANG KEBEBASAN BERSERIKAT DAN
PERLINDUNGAN HAK UNTUK BERORGANISASI)

PRESIDEN REPUBLIK INDONESIA,

- Menimbang :
- a. bahwa sebagai hasil sidang Government Body International Labour Organisation di San Fransisco Amerika Serikat, pada tanggal 17 Juni 1948 telah diterima Convention (Number 87) concerning Freedom of Association and Protection of the Right to Organise, (Konvensi Nomor 87 tentang Kebebasan Berserikat dan Perlindungan Hak Untuk Berorganisasi);
 - b. bahwa sehubungan dengan itu, dan sesuai dengan Amanat Presiden Republik Indonesia kepada Ketua Dewan Perwakilan Rakyat Nomor 2826/HK/1960 tanggal 22 Agustus 1960 tentang Pembuatan Perjanjian-perjanjian dengan Negara lain, dipandang perlu untuk mengesahkan Convention tersebut dengan Keputusan Presiden;

Mengingat : Pasal 4 ayat (1) dan Pasal 11 Undang-Undang Dasar 1945;

MEMUTUSKAN:

Menetapkan : KEPUTUSAN PRESIDEN TENTANG PENGESAHAN CONVENTION (NUMBER 87) CONCERNING FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANISE (KONVENSI NOMOR 87 TENTANG KEBEBASAN BERSERIKAT DAN PERLINDUNGAN HAK UNTUK BERORGANISASI);

Pasal 1

Mengesahkan Convention (Number 87) concening Preedom of Association and Protection of the Right to Organise (Konvensi Nomor 87 tentang Kebebasan Berserikat dan Perlindungan Hak Untuk Berorganisasi), yang telah diterima di San Fransisco, Amerika Serikat, pada tanggal 17 Juni 1948 sebagai hasil Sidang Governing Body International Labour Organisation, yang naskah aslinya dalam bahasa Inggeris dan terjemahannya dalam bahasa Indonesia sebagaimana terlampir pada Keputusan Presiden ini.

Pasal 2

Apabila terjadi perbedaan penafsiran antara naskah terjemahan Convention dalam bahasa Indonesia dengan salinan naskah aslinya dalam bahasa Inggeris sebagaimana dimaksud dalam Pasal 1, maka yang berlaku adalah salinan naskah aslinya dalam bahasa Inggeris.

Pasal 3

Keputusan Presiden ini mulai berlaku pada tanggal ditetapkan.

Agar setiap orang mengetahuinya, memerintahkan pengundangan Keputusan Presiden ini dengan penempatannya dalam Lembaran Negara Republik Indonesia.

Ditetapkan di Jakarta
pada tanggal 5 Juni 1998

PRESIDEN REPUBLIK INDONESIA

ttd.

BACHARUDDIN JUSUF HABIBIE

Diundangkan di Jakarta
pada tanggal 5 Juni 1998

MENTERI NEGARA SEKRETARIS NEGARA
REPUBLIK INDONESIA,

ttd.

AKBAR TANJUNG

LEMBARAN NEGARA REPUBLIK INDONESIA TAHUN 1998 NOMOR 98

Penafian

Peraturan perundang-undangan ini merupakan dokumen yang ditulis / diketik ulang dari salinan resmi peraturan perundang-undangan yang telah diundangkan oleh pemerintah Republik Indonesia. Dilakukan untuk memudahkan pihak yang berkepentingan untuk mendapatkan dan memahami peraturan perundang-undangan terkait dengan ketenagakerjaan.

CONVENTION No. 87

Convention concerning Freedom of Association and Protection of the Right to Organise 1

The General Conference of the International Labour Organisation,

Having been convened at San Francisco by the Governing Body of the International Labour Office, and having met its Thirty-first Session on 17 June 1948;

Having decided to adopt, in the form of a Convention, certain proposals concerning freedom of association and protection of the right to organise, which is the seventh item on the agenda of the session;

Considering that the Preamble to the Constitution of the International Labour Organisation declares "recognition of the principle of freedom of association" to be a means of improving conditions of labour and of establishing peace;

Considering that the Declaration of Philadelphia reaffirms that freedom of expression and of association are essential to sustained progress";

Considering that the International Labour Conference, at its Thirtieth Session, unanimously adopted the principle which should form the basis for international regulation;

Considering that the General Assembly of the United Nations, at its Second Session, endorsed these principle and requested The International Labour Organisation to continue every effort in order that it may be possible to adopt one or several International Conventions;

adopts this ninth day of July of the year one thousand nine hundred and forty eight the following Convention, which may be cited as the Freedom of Association and Protection of the Right to Organise Convention, 1948:

Part I. FREEDOM OF ASSOCIATION

Article 1

Each Member of the International Labour Organisation for which this Convention is in force undertakes to give effect to the following provisions.

Article 2

Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisation of their own choosing without previous authorisation.

1. Date of coming into force : 4 July 1950

Article 3

1. Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.
2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

Article 4

Workers and employers' organisations shall not be liable to be dissolved or suspended by administrative authority.

Article 5

Workers and employers organisations shall have the right to establish and join federations and confederations and any such organisation, federation, confederation or confederation shall have the right to affiliate with international organisation of workers and employers.

Article 6

The provisions of Article 2, 3 and 4 hereof apply to federations and confederations of workers and employer organisations.

Article 7

The acquisition of legal personality by workers' and employers' organisation, federation and confederations shall not be made subject to conditions of such a character as to restrict the application of the provision of article 2, 3 and 4 hereof.

Article 8

1. In exercising the rights provided for in this Convention workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land.
2. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention.

Article 9

1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.
2. In accordance with the principle set forth in paragraph 8 of article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

Article 10

In this Convention the term organisation means any organisation of workers or of employers for furthering and defending the interests of workers or of employers.

PART II. PROTECTION OF THE RIGHT TO ORGANISE

Article 11

Each Member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.

PART III. MISCELLANEOUS PROVISIONS

Article 12

1. In respect of the territories referred to in article 35 of the Constitution of the International Labour Organisation as amended by the Consitution of the International Labour Organisation Instrument of Amendment, 1946, other than the territories refferred to in paragraphs 4 and 5 of the said article as so amended, each Member of the Organisation which ratifies this Convention shall communicate to the Director-General of the International Labour Office with or as soon as possible after its ratification a declaration stating.
 - (a) the territories in respect of which it 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 reserves its decision.
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 whole or in part any reservations 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 this Convention is subject to denunciation in accordance with the provision of Article 16, communication to the Director-General a declaration modifying in any agreement with the government of the

terms of any former declaration and stating the present position in respect of such territories as it may specify.

Article 13

1. Where the subject-matter of this Convention is within the self-governing powers of any non-metropolitan territory, the Member responsible for the international relations of that territory may, in agreement with the government of the territory, communicate to the Director-General of the International Labour Office a declaration accepting on behalf of the territory the obligations of this Convention.
2. A declaration accepting the obligations of this Conventions may be communicated to the Director-General of the International Labour Office.
 - (a) by two or more Members of the Organisations in respect of any territory which is under their joint authority; or
 - (b) by any international authority responsible for the administration of any territory, in virtue of the Charter of United Nations or otherwise, in respect of any such territory.
3. Declaration communicated to the Directors-General of the International Labour Office in accordance with preceding paragraph of this Article 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.
4. 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.
5. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of article 16, communicate to the Director-General of the International Labour Office 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.

PART IV. FINAL PROVISIONS

Article 14

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

Article 15

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratification 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 ratification has been registered.

Article 16

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 shall 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 17

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all declaration,

declarations and denunciations communicated to him by the Members of the Organisation.

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

Article 18

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

Article 19

At such times it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working or 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 20

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 provision of Article 16 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.

- 8 -
Article 21

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



KONVENSI NOMOR 87
KONVENSI TENTANG KEBEBASAN BERSERIKAT
DAN PERLINDUNGAN HAK BERORGANISASI
BAGIAN I
KEBEBASAN BERSERIKAT

Pasal 1

Setiap anggota Organisasi Perburuhan Internasional (ILO) dimana konvensi ini diberlakukan harus melaksanakan ketentuan-ketentuan berikut ini.

Pasal 2

Pekerja dan pengusaha, tanpa perbedaan apapun, mempunyai hak untuk mendirikan dan, tunduk hanya pada peraturan-peraturan organisasi tersebut, untuk bergabung pada organisasi-organisasi pilihan mereka tanpa otorisasi sebelumnya.

Pasal 3

1. Organisasi pekerja dan pengusaha mempunyai hak untuk menyusun konstitusi dan peraturan-peraturan untuk memilih wakil-wakil mereka dengan penuh kebebasan, menentukan administrasi dan kegiatan-kegiatannya dan memformulasikan rencana-rencana mereka.
2. Pemerintah wajib menghentikan setiap campur tangan yang membatasi hak mereka ini atau yang menghalangi pelaksanaannya.

Pasal 4

Organisasi-organisasi pekerja dan pengusaha tidak dapat dibubarkan atau ditunda oleh Pemerintah.

Pasal 5

Organisasi-organisasi pekerja dan pengusaha mempunyai hak untuk mendirikan dan bergabung dengan federasi-federasi dan konfederasi dan organisasi apapun, federasi atau konfederasi mempunyai hak untuk berafiliasi dengan organisasi pekerja dan pengusaha internasional.

Pasal 6

Ketentuan-ketentuan pada pasal 2, 3, dan 4 dimaksud berlaku untuk federasi-federasi dan konfederasi dari organisasi-organisasi pekerja dan pengusaha.

Pasal 7

Penerimaan kepribadian yang sah oleh organisasi-organisasi, federasi-federasi, konfederasi-konfederasi pekerja dan pengusaha tidak tunduk pada kondisi-kondisi karakter sebagaimana untuk membatasi penerapan ketentuan-ketentuan dalam pasal 2, 3, dan 4 diatas.

Pasal 8

1. Dalam melaksanakan hak-hak yang dimuat dalam Konvensi ini pekerja dan pengusaha organisasi-organisasi mereka masing-masing, sama seperti orang-orang lain atau perkumpulan-perkumpulan lainnya, harus menghormati hukum negara setempat.
2. Hukum negara setempat tidak menghalangi, ataupun dibuat untuk menghalangi, jaminan-jaminan yang dimuat dalam Konvensi ini.

Pasal 9

1. Tingkat dari jaminan yang dimuat dalam Konvensi ini berlaku untuk anggota angkatan bersenjata dan polisi ditentukan oleh hukum nasional atau peraturan perundangan.
2. Berkaitan dengan prinsip yang dinyatakan dalam ayat 8 pasal 19 Undang-undang Organisasi Ketenagakerjaan Internasional, ratifikasi Konvensi ini oleh anggota manapun dianggap tidak mempengaruhi hukum yang sedang berlaku, penghargaan yang diterima (award), kebiasaan atau perjanjian demi kebaikan anggota-anggota angkatan bersenjata atau polisi menikmati hak apapun yang dijamin oleh Konvensi ini.

Pasal 10

Dalam Konvensi ini istilah "organisasi" adalah organisasi manapun dari pekerja dan pengusaha yang memajukan dan membela interest para pekerja dan pengusaha tersebut.

BAGIAN II

PERLINDUNGAN HAK UNTUK BERORGANISASI

Pasal 11

Setiap anggota dari Organisasi Internasional dimana Konvensi ini diberlakukan mengambil hal-hal yang penting dan tepat untuk memastikan bahwa pekerja dan pengusaha dapat melaksanakan hak berorganisasi dengan bebas.

BAGIAN III

KETENTUAN-KETENTUAN LAIN

Pasal 14-21: Deklarasi dari aplikasi untuk wilayah-wilayah metropolitan.

BAGIAN IV

KETENTUAN-KETENTUAN AKHIR

Pasal 14-21: Standar Ketentuan-ketentuan akhir.

Penafian

Peraturan perundang-undangan ini merupakan dokumen yang ditulis / diketik ulang dari salinan resmi peraturan perundang-undangan yang telah diundangkan oleh pemerintah Republik Indonesia. Dilakukan untuk memudahkan pihak yang berkepentingan untuk mendapatkan dan memahami peraturan perundang-undangan terkait dengan ketenagakerjaan.