
International Labour Conference, Committee on the Application of Standards, 2026

SOUTH AFRICA – C111 – Discrimination (Employment and Occupation) Convention, 1958

Employer Representative, South Africa

Thank you, Chair.

I speak on behalf of Business Unity South Africa (BUSA), the apex business organisation in South Africa, representing over 90% of the employers in all the economic sectors affected by the Employment Equity Act and its Regulations.

At the outset, let me state that BUSA does not quarrel with the Government's policy to transform the labour market and improve the representation of previously disadvantaged or designated individuals. In fact, it is a policy that we wholeheartedly embrace. Our issue is with the manner in which the Government seeks to implement this policy.

The Government has published Regulations that set granular targets for the employment of designated individuals per occupational level at designated enterprises across various sectors of the economy. The Minister of Employment and Labour is empowered by the amended Employment Equity Act to identify sectors or sub-sectors of the economy and to set numerical targets for them. However, setting the targets must be done "**after consulting** with the relevant sectors".

On the face of it, the Government's information shared here today suggests that it is complying with the requests and observations of the Committee of Experts to improve the representation of previously excluded individuals. However, the numerical targets have been set arbitrarily and with no reference to the realities of the sectors concerned, including any data about the availability of suitably qualified designated individuals in the various sectors.

Despite repeated requests to produce the data that informed the Regulations and numerical targets, the Government has refused or failed to produce the records. This also prevented any meaningful consultation between the affected businesses or employers and the

Government, which could have identified the problems with the targets and explored solutions thereto.

To compound the issue, the Government also refused or failed, without offering any valid reasons, to disaggregate sectors into appropriate sub-sectors, which would have allowed the setting of clearer and more reasonable targets. Instead, the agglomeration of sectors means that the same targets have been set for sectors and sub-sectors that are very different in their make-up and skills requirements. As an example, banks, life insurers, non-life insurers, asset managers and investment firms all have the same targets because they have been grouped under the "financial sector", despite the significant differences in their skills requirements. This means some firms will have unreasonably high or unachievable targets at some occupational levels.

Regrettably, the Government's refusal or failure to consult meaningfully or at all with the affected business sectors has led to BUSA initiating litigation against the Government over its Employment Equity Regulations and sector targets. In our view, this is unfortunate and will retard any progress the Government seeks to make to improve the representation of designated individuals in the labour market.

To make matters worse, the Regulations provide for hefty penalties where a designated employer fails to meet the targets. The Government's attitude is that employers can escape the penalties if they are able to demonstrate that they had a justifiable reason for not meeting the targets, such as the unavailability of skilled individuals to hire.

While this may appear reasonable, the approach places a burden on employers who must justify their failure to meet targets when the Government could easily have prevented that scenario by consulting with the relevant sector employers to set realistic targets.

To reiterate, as I conclude, the employer organisations I represent fully support the policy to transform the labour market and improve the representation of previously disadvantaged or designated individuals.

Chair, I submit that the Government's approach, with its sector targets, is unlikely to improve the representation of designated individuals in the labour market. Rather, it is going to lead to resentment, opposition and litigation. BUSA and its members remain willing and open to

engage in meaningful consultations with the Government to set appropriate and reasonable employment targets for designated individuals or groups.

Thank you, Chair.