

Governing Body

354th Session, Geneva, 14 June 2025

Institutional Section

INS

Eighth item on the agenda

Report of the Committee on Freedom of Association

411th Report of the Committee on Freedom of Association

► Contents

	Paragraphs
Introduction	1–92
Cases in follow-up	22–88
Case No. 3102 (Chile) (closed)	23–27
Case No. 2719 (Colombia) (closed)	28–37
Case No. 3378 (Ecuador) (closed)	38–42
Case No. 3040 (Guatemala) (closed)	43–47
Case No. 3401 (Malaysia)	48–60
Case No. 3414 (Malaysia) (closed)	61–64
Case No. 2751 (Panama) (closed)	65–67
Case No. 2652 (Philippines) (closed)	68–88
<i>Case No. 3434 (Algeria): Interim report</i>	
Complaint against the Government of Algeria presented by the Trade Union Confederation of Productive Workers (COSYFOP), supported by Public Services International (PSI) and the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)	93–149
The Committee's conclusions	131–148
The Committee's recommendations	149

Case No. 3203 (Bangladesh): Interim report

Complaint against the Government of Bangladesh presented by the International Trade Union Confederation (ITUC).....	150–165
The Committee's conclusions.....	160–164
The Committee's recommendations.....	165

Case No. 3184 (China): Interim report

Complaint against the Government of China presented by the International Trade Union Confederation (ITUC).....	166–188
The Committee's conclusions.....	178–187
The Committee's recommendations.....	188

Cases Nos 2761 and 3074 (Colombia): Interim report

Complaints against the Government of Colombia presented by the International Trade Union Confederation (ITUC), the World Federation of Trade Unions (WFTU), the Single Confederation of Workers of Colombia (CUT), the General Confederation of Labour (CGT), the Confederation of Workers of Colombia (CTC), the National Union of Workers in the Food System (SINALTRAINAL), the Union of Energy Workers of Colombia (SINTRAELECOL), the Union of Cali Municipal Enterprise Workers (SINTRAEMCALI) and the Single Trade Union Association of Public Employees in the Colombian Prison System (UTP).....	189–213
The Committee's conclusions.....	202–212
The Committee's recommendations.....	213

Case No. 3271 (Cuba): Interim report

Complaint against the Government of Cuba presented by the Independent Trade Union Association of Cuba (ASIC).....	214–251
The Committee's conclusions.....	233–250
The Committee's recommendations.....	251

Case No. 3349 (El Salvador): Definitive report

Complaint against the Government of El Salvador presented by the Trade Union of Workers of the Salvadoran Institute for Women's Development (USTTISDEMU) and the National Union for the Defence of the Working Class (UNT).....	252–280
The Committee's conclusions.....	270–279
The Committee's recommendations.....	280

Case No. 2609 (Guatemala): Interim report

Complaints against the Government of Guatemala presented by the Indigenous and Rural Workers' Trade Union Movement of Guatemala (MSICG), the Autonomous Popular Trade Union Movement of Guatemala, the Global Unions of Guatemala, the Trade Union Confederation of Guatemala (CUSG), the General Confederation of Workers of Guatemala (CGTG), the Trade Union of Workers of Guatemala (UNSITRAGUA) and the Movement of Rural Workers of San Marcos (MTC), supported by the International Trade Union Confederation (ITUC).....	281–300
The Committee's conclusions.....	290–299
The Committee's recommendations.....	300

Case No. 3459 (Honduras): Interim report

Complaint against the Government of Honduras presented by the Authentic Trade Union Federation of Honduras (FASH) and the Union of Workers of the Revenue Administration Service (SITRASAR).....	301–321
The Committee's conclusions.....	314–320
The Committee's recommendations.....	321

Case No. 2508 (Islamic Republic of Iran): Interim report

Complaint against the Government of the Islamic Republic of Iran presented by the International Trade Union Confederation (ITUC) (the initial complainant in 2006 was the International Confederation of Free Trade Unions (ICFTU), before it merged into the ITUC) and the International Transport Workers' Federation (ITF)	322–349
The Committee's conclusions.....	341–348
The Committee's recommendations.....	349

Cases Nos 2177 and 2183 (Japan): Report in which the Committee requests to be kept informed of developments

Complaints against the Government of Japan presented by the Japanese Trade Union Confederation (JTUC–RENGO), the RENGO Public Sector Liaison Council (RENGO–PSLC), the National Confederation of Trade Unions (ZENZOREN) and the Japan Federation of Prefectural and Municipal Workers' Unions (JICHIROREN), supported by the International Confederation of Free Trade Unions (ICFTU), Public Services International (PSI), the International Transport Workers' Federation (ITF), the International Federation of Building and Wood Workers (IFBWW), Education International (EI), the International Federation of Employees in Public Services (INFEDOP) and Union Network International (UNI).....	350–406
The Committee's conclusions.....	389–405
The Committee's recommendations.....	406

Case No. 3337 (Jordan): Interim report

Complaint against the Government of Jordan presented by the Jordanian Federation of the Independent Trade Unions (JFITU)	407–439
The Committee's conclusions.....	420–438
The Committee's recommendations.....	439

Case No. 3405 (Myanmar): Interim report

Complaint against Myanmar presented by the International Trade Union Confederation (ITUC) and Education International	440–469
The Committee's conclusions.....	457–468
The Committee's recommendations.....	469

Case No. 3450 (Norway): Definitive report

Complaint against the Government of Norway presented by the Union of Education Norway (UEN), supported by Education International (EI), the Confederation of Unions for Professionals (Unio), the Norwegian Union of School Employees – Skolenes Landsforbund (SL), the Federation of Norwegian Professional Associations (Akademikerne) and the Norwegian Association of Graduate Teachers – Norsk Lektorlag (NL).....	470–511
The Committee's conclusions.....	505–510
The Committee's recommendations.....	511

Case No. 3440 (Peru): Report in which the Committee requests to be kept informed of developments

Complaint against the Government of Peru presented by the General Confederation of Workers of Peru (CGTP)	512–526
The Committee's conclusions.....	522–525
The Committee's recommendations.....	526

Case No. 2254 (Bolivarian Republic of Venezuela): Interim report

Complaint against the Government of the Bolivarian Republic of Venezuela presented by the International Organisation of Employers (IOE) and the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS).....	527–556
The Committee's conclusions.....	544–555
The Committee's recommendations.....	556

► Introduction

1. The Committee on Freedom of Association (CFA), set up by the Governing Body at its 117th Session (November 1951), met at the International Labour Office, Geneva from 29 to 30 May and 5 June 2025 under the chairmanship of Professor Evance Kalula.
2. The following members participated in the meeting: Mr Benedicto Ernesto Bitonio Jr (Philippines), Mr Akira Isawa (Japan), Ms Anousheh Karvar (France), Mr Sandro Lunard Nicoladeli (Brazil) (virtually) and Ms Ramatoulaye Niang (Senegal) (virtually); Employers' group Vice-Chairperson, Mr Thomas Mackall (virtually) and members, Mr Juan Mailhos, Mr Kaizer Moyane, Ms Miriam Pinto, Mr Atul Sobti and Mr Fernando Yllanes; Workers' group Vice-Chairperson, Ms Amanda Brown and members, Mr Zahoor Awan, Mr Anthony Baah, Mr Gerardo Martínez, Mr Magnus Norddahl and Mr Jeffrey Vogt. The member of Japanese nationality was not present during the examination of the cases relating to Japan (Cases Nos 2177 and 2183).

* * *

3. Currently, there are **96** cases before the Committee in which complaints have been submitted to the governments concerned for their observations. At its present meeting, the Committee examined **17** cases on the merits, reaching conclusions in **2** definitive reports, **3** reports in which the Committee requests to be kept informed of developments and interim conclusions in **12** cases; the remaining cases were adjourned for the reasons set out in the following paragraphs. The Committee recalls that it issues "definitive reports" when it determines that the matters do not call for further examination by the Committee beyond its recommendations (which may include follow-up by the government at national level) and the case is effectively closed for the Committee, "interim reports" where it requires further information from the parties to the complaint and "reports in which it requests to be kept informed of developments" in order to examine later the follow-up given to its recommendations.

Examination of cases

4. The Committee appreciates the efforts made by governments to provide their observations on time for their examination at the Committee's meeting. Effective cooperation with the Committee's procedures supports the efficiency of the Committee's work and enables it to carry out its examination in the fullest knowledge of the circumstances in question. The Committee therefore urges governments to send information relating to cases in **paragraph 6**, and any additional observations in relation to cases in **paragraphs 8 and 9**, as soon as possible to enable their treatment in the most effective manner. Communications received after **15 September 2025** will not be taken into account for cases examined at its next session in the absence of compelling circumstances in the judgment of the Committee.

Serious and urgent cases which the Committee draws to the special attention of the Governing Body

5. The Committee considers it necessary to draw the special attention of the Governing Body to Cases Nos 2254 (Bolivarian Republic of Venezuela), 2508 (Islamic Republic of Iran), 2609 (Guatemala), 2761 and 3074 (Colombia), 3184 (China), 3203 (Bangladesh) and 3405 (Myanmar) because of the seriousness and urgency of the matters dealt with therein. The Committee

recalls in this regard that, in accordance with paragraph 54 of its procedures, it considers as serious and urgent those cases involving human life or personal freedom, or new or changing conditions affecting the freedom of action of a trade union movement as a whole, cases arising out of a continuing state of emergency and cases involving the dissolution of an organization.

Urgent appeals: Delays in replies

6. As regards Cases Nos 3249 (Haiti), 3263 (Bangladesh), 3269 (Afghanistan), 3395 (El Salvador), 3403 (Guinea), 3425 (Eswatini), 3448 (Guinea-Bissau), 3467 (Zimbabwe), 3472 (El Salvador) and 3479 (Malaysia), the Committee observes that despite the time that has elapsed since the submission of the complaints or the issuance of its recommendations on at least two occasions, it has not received the observations of the Governments. The Committee draws the attention of the Governments to the fact that, in accordance with the procedural rules set out in paragraph 17 of its 127th Report, approved by the Governing Body, it may present a report on the substance of these cases at its next meeting if the observations or information have not been received in due time. The Committee accordingly requests the Governments to transmit or complete their observations or information as a matter of urgency.

Observations requested from governments

7. The Committee is still awaiting observations or information from the Governments concerned in the following cases: 2318 (Cambodia), 3185 (Philippines), 3384 (Honduras), 3406 (China – Hong Kong Special Administrative Region), 3441 (Bolivarian Republic of Venezuela), 3456 (Panama), 3465 (Serbia), 3484 (Paraguay), 3485 (Argentina), 3486 (India), 3489 (Chile), 3491 (Paraguay), 3492 (Colombia) and 3494 (Chile). If these observations are not received by its next meeting, the Committee will be obliged to issue an urgent appeal in these cases.

Partial information received from governments

8. In Cases Nos 2265 and 3023 (Switzerland), 3325 (Argentina), 3383 (Honduras), 3413 (Plurinational State of Bolivia), 3419 (Argentina), 3445 (El Salvador), 3451 (Bolivarian Republic of Venezuela), 3453 and 3454 and 3462 (Mexico), 3470 (Colombia), 3473 (Bolivarian Republic of Venezuela), 3475 and 3480 (Argentina), 3488 (Ecuador), 3493 (Honduras) and 3496 (Peru), the Governments have sent partial information on the allegations made. The Committee requests all these Governments to send the remaining information without delay so that it can examine these cases in full knowledge of the facts.

Observations received from governments

9. As regards Cases Nos 2923 (El Salvador), 3148 (Ecuador), 3157 (Colombia), 3179 (Guatemala), 3218 (Colombia), 3233 (Argentina), 3239 (Peru), 3258 (El Salvador), 3277 (Bolivarian Republic of Venezuela), 3321 (El Salvador), 3352 (Costa Rica), 3358 (Argentina), 3423 (Colombia), 3452 (Argentina), 3457 and 3458 (Republic of Korea), 3463 (Argentina), 3464 (Peru), 3468 (Saudi Arabia), 3469 (Panama), 3471 (Colombia), 3474 (Plurinational State of Bolivia), 3476 (Burkina Faso), 3477 (Peru), 3478 (Türkiye), 3481 (Peru), 3483 (Republic of Moldova), 3487 (Uzbekistan), 3490 (Türkiye), and 3495 (Ecuador) the Committee has received the Governments' observations and intends to examine the substance of these cases as swiftly as possible.

Withdrawal of complaints

10. The Committee takes note of a communication dated 25 April 2025, in which the Government of Colombia transmits the text of an agreement signed within the framework of the Committee for the Handling of Conflicts referred to the ILO, by which the National Trade Union of Cosmetics Industry, Perfumery and Pharmaceutical Derivatives Workers indicates that it is withdrawing its complaint in Case No. 3213. The agreement also states that the Government will forward its text to the International Labour Organization. The Committee therefore considers that this case is closed.

New cases

11. The Committee adjourned until its next meeting the examination of the following new cases which it has received since its last meeting: Cases Nos 3497 (Costa Rica) and 3498 (Algeria), since it is awaiting information and observations from the Governments concerned. These cases relate to complaints submitted since the last meeting of the Committee.

Voluntary conciliation

12. In its March 2021 report (GB.341/INS/12/1), the Committee decided to adopt a similar approach of optional voluntary conciliation for complaints as has been adopted with respect to representations under article 24 of the ILO Constitution. In June 2024, the Committee took note that the parties in Case No. 3461 (Guatemala), the Confederation of University Workers of the Americas (CONTUA) and the Government agreed to refer the dispute to voluntary conciliation at the national level. The parties have so far been engaged in the conciliation process. The Committee also took note that the parties in Case No. 3466 (Chile), the Federation of National Congress Associations (FEDACON), the National Association of Fiscal Employees (ANEF) and the Single Central Organization of Workers of Chile (CUT), and the Government agreed to refer the dispute to voluntary conciliation at the national level. The parties have so far been engaged in the conciliation process.
13. In October 2024, the Committee took note that the parties in Case No. 3465 (Serbia), the International Transport Workers' Federation (ITF), the Central Union of Aeronautical Stewardesses and Stewards (Jedinstveni sindikat stjuardesa i stjuarda vazduhoplova – "JSSSV") of Serbia and the European Transport Workers' Federation (ETF) and the Government agreed to refer the dispute to voluntary conciliation at the national level. Through communications dated 2 and 15 April 2025, the Government and the ITF, the JSSSV and the ETF, respectively, informed that the process of voluntary conciliation at the national level was unsuccessful. The complainant organizations expressed the desire to refer the matter back to the Committee on Freedom of Association.
14. The Committee takes note that the parties in Case No. 3482 (Chile), the National Union of Intercompany Workers (SME) and the Government have agreed to refer the dispute to voluntary conciliation at the national level. This suspends the consideration by the Committee of the complaint for a period of up to six months. The Committee recalls that the ILO fully supports the resolution of disputes at national level and is available to assist the parties in this regard.

Article 24 representations

15. The Committee has received certain information from the following Governments with respect to the article 24 representations that were referred to them: Argentina, Brazil and Uruguay and intends to examine them as swiftly as possible.
16. The Committee is awaiting the Governments' full replies in respect of the article 24 representations concerning Argentina (two representations presented in 2021), Chile (one representation presented in 2023 and four representations presented in 2024), Serbia and Sudan.
17. The Committee notes that the parties in another article 24 representation concerning Chile (presented in 2023) remain engaged in a voluntary conciliation procedure.
18. In March 2025 the Committee took note that the parties in the representations from Canada and Uruguay (2024) agreed to refer the disputes to voluntary conciliation at the national level. The parties have so far been engaged in the conciliation process.
19. The Committee further draws the Governing Body's attention to the report presented by its committee appointed according to the Standing Orders under article 24 of the Constitution to examine the representation against the Government of Costa Rica for non-observance of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the Workers' Representatives Convention, 1971 (No. 135) (GB.354/INS/9/5).

Article 26 complaint

20. The Committee is awaiting the observations of the Government of Belarus in respect of its recommendations relating to the measures taken to implement the recommendations of the Commission of Inquiry.

Transmission of cases to the Committee of Experts

21. The Committee draws the legislative aspects of Cases Nos 2177 and 2183 (Japan) as a result of the ratification of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), to the attention of the Committee of Experts on the Application.

► Cases in follow-up

22. The Committee examined **8** cases in paragraphs **23** to **88** concerning the follow-up given to its recommendations and concluded its examination with respect to and therefore closed **7** cases: Cases Nos 2652 (Philippines), 2719 (Colombia), 2751 (Panama), 3040 (Guatemala), 3102 (Chile), 3378 (Ecuador) and 3414 (Malaysia) .

Case No. 3102 (Chile)

23. The Committee last examined this case, concerning alleged legislative obstacles to the right to collective bargaining and the right to strike of inter-company trade unions (those representing workers from two or more different employers) and decreased protection of workers against acts of anti-union discrimination such as dismissal, at its October 2015 meeting [see

376th Report, paras 245–275]. On that occasion, noting that a partial draft reform of the Labour Code was under discussion in the National Congress, the provisions of which addressed some of the points raised in the complaint in a manner so as to bolster the principles of freedom of association and collective bargaining, the Committee requested the Government to communicate the text of the act as soon as it was adopted.

24. In a communication dated 5 October 2017, the Government indicates that: (i) the bill that had been under consideration was approved by Act No. 20.940, which entered into force on 1 April 2017; (ii) the Act modernizes the labour relations system by amending certain provisions on unionization and replacing in their entirety those relating to collective bargaining contained in Book IV of the Labour Code; (iii) the content of the aforementioned Act and a description of the manner in which its amendments strengthen the implementation of Conventions Nos 87 and 98 were included in the reports submitted by the Government to the Committee of Experts on the Application of Conventions and Recommendations (CEACR); and (iv) the Committee noted with interest and satisfaction the amendments introduced by the Act aimed at promoting collective bargaining, simplifying the formal collective bargaining procedure, broadening the issues that might be covered by negotiation and extending the scope of protection against anti-union discrimination.
25. *The Committee recalls that this complaint, submitted in 2014 and examined in 2015, concerns mainly the fact that, unlike with company trade unions, the ability of inter-company trade unions to negotiate depended on the willingness of employers and that, if companies did agree to negotiations, these were conducted without any formal procedure or guarantees such as trade union immunity or the right to strike. The Committee takes note of the information provided by the Government and notes with interest the adoption of Act No. 20.940.*
26. *The Committee observes that, in recent years, when examining the implementation of Convention No. 98, the CEACR: (i) noted with satisfaction that the Act repealed the rule contained in section 334 bis of the Labour Code, which provided that, for employers, bargaining with the inter-company union was voluntary or optional and that, where an employer refused, the workers in the company who were not members of the inter-company union could submit draft collective agreements; (ii) noted that this provision had been replaced with a rule allowing inter-company unions to submit draft collective agreements at the company level on behalf of their members; (iii) also noted that, under new section 364 of the Labour Code, employers in small enterprises of up to 50 workers retained the right to refuse to negotiate with inter-company unions and had, according to the interpretation of the Labour Directorate, a period of ten days to express such refusal; and (iv) requested the Government to provide information on the measures taken or planned to promote collective bargaining in all productive sectors and at all levels, on the number of collective agreements concluded by level and sector, comparing in particular the company level with higher levels, and on the number of workers covered.*
27. *Taking into consideration the follow-up carried out by the CEACR, having received no information from the complainant organizations in the context of the Committee's follow-up on this case, and recalling the importance of continuing to encourage the full development and use of collective bargaining procedures at various levels, the Committee considers that this case is closed and does not require further examination.*

Case No. 2719 (Colombia)

28. The Committee examined this case, relating to allegations of anti-union acts by an agri-food company (hereafter the company) at its June 2010 meeting [see 357th Report, paras 301–345]. On that occasion, the Committee made the following recommendations:

- (a) With respect to the allegations concerning Nestlé's refusal to grant the leaders of the trade union organization free access to the plants, recalling that governments should guarantee the access of trade union representatives to workplaces, with due respect for the company's rights of property and management, so that trade unions can communicate with workers in order to apprise them of the potential advantages of unionization, the Committee requests the Government to ensure that the company fully respects this principle and that the workers can communicate freely with union representatives, and without the presence of a representative of the enterprise.
 - (b) As to the allegations concerning the company's refusal to negotiate with SINALTRAINAL at the Valledupar plant, and its conclusion of a collective agreement with another trade union organization, the Committee requests the Government to keep it apprised of the final outcome of the appeal against the administrative decision of the Ministry for Social Protection in favour of the company, and to send a copy of the collective agreement that the Government states was eventually signed with SINALTRAINAL in 2006.
 - (c) As to the allegations concerning the request for the suspension of the trade union immunity of union leader Mr Luis Eduardo Lúquez Castilla, from the Bugalagrande plant, the Committee requests the Government to keep it apprised of the final outcome of the appeals procedure against the ruling ordering the suspension of immunity in question.
 - (d) With respect to the dismissal, in 2002, of 12 workers from the Bugalagrande plant for having participated in a protest, noting that these allegations date back to 2002 and that it is difficult for the Government to present its observations on the matter without further information, the Committee requests the complainant organization to provide further information on the circumstances of the dismissals and indicate whether, and before which court, relevant legal proceedings have been instituted. If the complainant organization does not provide additional information in this respect, the Committee will not pursue the examination of this allegation.
 - (e) As to the allegations concerning the company's dismissal without just cause, in 2006, of Mr Héctor Marino Lasso, Mr Leonardo Gómez and Mr Luis Fernández Arbeláez in violation of the collective agreement in force, the Committee requests the Government to keep it apprised of the final outcome of the pending legal proceedings.
 - (f) With regard to the allegations concerning the dismissal of four workers (Ms Edna Lucía Fernández, Mr Diego Lozano, Mr Hebert González and Mr Ignacio Millán) in 2007, in violation of the collective agreement, the Committee requests SINALTRAINAL to inform the Government of which courts are handling the legal proceedings instituted by the dismissed workers, and requests the Government to keep it informed of the relevant court rulings.
- 29.** In communications dated 16 March 2011 and 3 May 2023, the Government submitted the company's observations regarding some of the Committee's recommendations. With regard to the allegations concerning the request for the suspension of the trade union immunity of union leader Mr Luis Eduardo Lúquez Castilla (recommendation (c)), the company maintains that there is no evidence that it had any employment relationship with Mr Lúquez Castilla, therefore it cannot provide any information in that regard.
- 30.** As for the alleged dismissals without just cause of Mr Héctor Marino Lasso, Mr Leonardo Gómez and Mr Luis Fernández Arbeláez (recommendation (e)), the company reiterates that Mr Marino Lasso was compensated on 30 June 2006. It also indicates that Mr Gómez and Mr Fernández Arbeláez filed an application for legal protection (*tutela*) before the mixed municipal court of Bugalagrande, which declared the claims inadmissible in a ruling dated 11 August 2006, and that this decision was upheld in second instance in a ruling dated 13 September 2006, handed down by the First Civil Court of the Tuluá Circuit.
- 31.** With regard to the alleged dismissals of Ms Edna Lucía Fernández, Mr Diego Lozano, Mr Hebert González and Mr Ignacio Millán in 2007 in violation of the collective agreement in force at the

Bugalagrande plant (recommendation (f)), the company informs that an application for legal protection (*tutela*) submitted by the National Union of Food Industry Workers (SINALTRAINAL) relating to these dismissals was declared inadmissible by the mixed municipal court of Bugalagrande – Valle del Cauca, on 11 August 2006. It also indicates that it paid compensation to the four workers between May and June 2007.

32. *The Committee takes due note of the company's observations, provided by the Government. With regard to recommendation (c), the Committee notes that the company denies the existence of any employment relationship with Mr Lúquez Castilla. While noting that this statement contradicts the information previously provided by the Government and that the requested information on the final outcome of the appeals procedure against the ruling that ordered the suspension of the trade union immunity of Mr Lúquez Castilla has not been provided, the Committee observes that it has not received new information from the complainant regarding the situation of Mr Lúquez Castilla.*
33. *With regard to recommendation (e), the Committee takes due note of the legal rulings issued in the company's favour by the mixed municipal court of Bugalagrande and the First Civil Court of the Tuluá Circuit with respect to the dismissals of Mr Gómez and Mr Fernández Arbeláez, and of the compensation paid by the company to Mr Marino Lasso following his dismissal.*
34. *With regard to recommendation (f), the Committee notes the rejection of an application for legal protection (*tutela*) submitted in relation to the dismissals of Ms Edna Lucía Fernández and Mr Diego Lozano, Mr Hebert González and Mr Ignacio Millán by the mixed municipal court of Bugalagrande – Valle del Cauca, and of the compensation paid to the four workers by the company. The Committee also observes that neither the complainant nor the Government has provided information about the courts to which the aforementioned workers had submitted legal actions stemming from their dismissals that were alleged to have violated the aforementioned collective agreement.*
35. *The Committee also notes that the Government has not provided information about the company's alleged refusal to grant the leaders of SINALTRAINAL free access to the plants (recommendation (a)). In this regard, the Committee recalls that workers' representatives should be granted access to all workplaces in the undertaking where such access is necessary to enable them to carry out their representation function [see **Compilation of decisions of the Committee on Freedom of Association**, sixth edition, 2018, para. 1591]. Observing with interest that, according to publicly available information, in March 2025 the company and SINALTRAINAL signed collective agreements applicable to the company's various plants in the country, the Committee trusts that the parties were able to reach a negotiated settlement regarding the access of the leaders of SINALTRAINAL to the company's plants.*
36. *With regard to the company's alleged refusal to negotiate with SINALTRAINAL at the Valledupar plant (recommendation (b)), while noting that it has not received the requested information about the final outcome of the appeal against the administrative decision of the Ministry for Social Protection that acquitted the company of its refusal to enter into negotiations, or a copy of the collective agreement that, according to the Government, was signed with SINALTRAINAL in 2006, the Committee also observes that, according to publicly available information, the collective agreements reached in March 2025 between SINALTRAINAL and the company include the Valledupar plant. The Committee duly notes this information.*
37. *Lastly, the Committee observes that the complainant has not provided the further information it had requested on the circumstances of the alleged dismissals of 12 workers from the Bugalagrande plant for having participated in a protest in 2002 and the potential initiation of legal proceedings in the matter (recommendation (d)). In these circumstances, the Committee considers that this case does not call for further examination and is closed.*

Case No. 3378 (Ecuador)

38. The Committee examined this case at its October 2021 meeting [see 396th Report, paras 274–306] and recalls that it concerns allegations of criminal proceedings against the President of the Ecuadorian Confederation of United Workers' Organizations (CEDOCUT) and incumbent President of the United Workers' Front (FUT), Mr Manuel Mesías Tatamuez Moreno, following his participation in a public meeting in the context of widespread protests in October 2019, and the lack of social dialogue on proposed labour reforms. On that occasion, the Committee requested the Government to keep it informed of the outcome of the examination of the criminal complaint brought against Mr Manuel Mesías Tatamuez Moreno and trusted that the competent authorities would take full account of the decisions on freedom of association referred to in the conclusions of the case (recommendation (a)). The Committee also trusted that the Government would ensure that any labour reforms proposed in the future would be prepared in consultation with all the representative organizations of workers and employers concerned (recommendation (b)).
39. In its communication of 22 February 2022, the Government indicates that: (i) according to the Attorney General's Office, criminal case No. 170101819100918 is open for the alleged crime of kidnapping, with Mr Manuel Mesías Tatamuez Moreno under investigation as a suspect; the case is at the pretrial investigation stage and is proceeding in a confidential manner, in accordance with article 584 of the Comprehensive Organic Criminal Code; and (ii) the Government accepts the Committee's recommendation regarding consultations with the social partners on labour reform.
40. *The Committee takes due note of the information provided by the Government that, in February 2022, criminal charges against the President of the CEDOCUT and incumbent President of the FUT, Mr Manuel Mesías Tatamuez Moreno, were still being investigated. Regretting that it has not received more recent information on this matter, the Committee notes that it appears from publicly available information that: (i) in March 2022, the National Assembly approved an amnesty bill in relation to the October 2019 protests, the constitutionality of which was subsequently challenged in court; and (ii) Mr Tatamuez Moreno died in October 2024.*
41. *While recalling that it has not been provided with any details of the specific facts that gave rise to the criminal complaint against Mr Tatamuez Moreno, and noting that it has not received any information on the outcome of the challenge to the aforementioned amnesty law, the Committee emphasizes that, while persons engaged in trade union activities or holding trade union office cannot claim immunity in respect of the ordinary criminal law, the arrest of, and criminal charges brought against, trade unionists may only be based on legal requirements that in themselves do not infringe the principles of freedom of association [see **Compilation of Decisions of the Committee on Freedom of Association**, sixth edition, 2018, para. 133].*
42. *In the light of the above, regretting the death of Mr Tatamuez Moreno, and having received no further information from the complainant organization, the Committee considers that this case is closed and does not call for further examination.*

Case No. 3040 (Guatemala)

43. The Committee last examined this case at its October 2017 meeting [see 383rd Report, paras 47–49]. On that occasion, the Committee regretted that, more than four years after the dismissal of workers affiliated with the Koa Modas Union of Workers, the salaries due to the reinstated workers had still not been paid, and urged the Government to take the necessary measures to ensure that those payments were made as soon as possible.

44. In communications dated 1 February, 15 May and 27 December 2019, 27 November and 2 December 2020, 5 May 2021, 16 December 2022, and 27 April and 30 August 2023, the Government provided information in response to the above recommendation, indicating that, as of 9 December 2019, the salaries and other labour benefits owed to 25 of the workers reinstated in accordance with the corresponding reinstatement orders had not yet been paid. The Government also submits the observations of the Association of the Garment and Textile Industry (VESTEX), which indicates that, as of 19 November 2020, the process relating to the claim for payment of wages not received during the time the workers were away from their jobs was being processed in the labour courts. In this regard, VESTEX further indicates that the company offered payment agreements through conciliation. Furthermore, the Government reports that, on 2 February 2019, criminal proceedings were initiated before the Criminal Court of Mixco against the chair of the company's board of directors for failure to pay a fine imposed in connection with labour incidents, and that those proceedings are pending resolution.
45. *The Committee notes with regret that more than 11 years after the dismissal of the above-mentioned workers and more than 7 years after their reinstatement, 25 of them have still not been paid their due salaries and benefits, and that legal proceedings in this regard are still pending. In this regard, the Committee recalls that justice delayed is justice denied [see **Compilation of decisions of the Committee on Freedom of Association**, sixth edition, 2018, para. 170]. The Committee also recalls that it has ruled on allegations concerning compliance with judicial orders of reinstatement on several occasions in other cases concerning the Government of Guatemala (see Case No. 3251, 400th Report, October 2022, paragraph 379; Case No. 2948, 382nd Report, June 2017, paragraph 379; Case No. 3062, 376th Report, October 2015, paragraph 585; Case No. 3042, 376th Report, October 2015, paragraph 568) and that the road map adopted by the Government in October 2013 as a result of the complaint regarding Guatemala's non-observance of Convention No. 87, made under article 26 of the ILO Constitution, highlighted the importance and urgency of complying with and enforcing labour court rulings with the aim of strengthening the rule of law in the country. Recalling that in many cases, the Committee has requested the government to ensure that the persons in question are reinstated in their jobs without loss of pay or compensation [see **Compilation**, para. 1168], the Committee firmly expects that the pending appeals concerning the payment of salaries and benefits owed to reinstated workers will be resolved in accordance with these criteria.*
46. *Furthermore, the Committee recalls that in its last examination of this case, it had received from the Government a report of the Committee for the Settlement of Disputes before the ILO in the Area of Freedom of Association and Collective Bargaining (now called the Sub-Committee on Conflict Resolution of the National Tripartite Committee on Labour Relations and Freedom of Association (CNTRLLS)), to which the case had been referred. In view of the above, the Committee encourages the Government to take the necessary measures to ensure that, through the Sub-Committee on Conflict Resolution of the CNTRLLS, the payment of the salaries and benefits owed to the 25 workers mentioned above is followed up, with a view to ensuring that it is made as soon as possible.*
47. *In these circumstances, and in the absence of new information from the complainant organization since 2013, the Committee considers that this case is closed and does not call for further examination.*

Case No. 3401 (Malaysia)

48. The Committee last examined this case (submitted in 2020) concerning allegations of the failure of the Government to provide protection in law and practice against repeated anti-union acts by the employer, including harassment, victimization and anti-union dismissals of trade union leaders and members, as well as non-compliance with a concluded agreement and deliberate delays in negotiations of a collective agreement, at its meeting in March 2022

[see 397th Report, paras 480–502].¹ On that occasion, the Committee issued the following recommendations [see 397th Report, para. 502]:

- (a) The Committee trusts that any future negotiations between the parties will be conducted in good faith, with the aim of avoiding excessive delays and keeping in mind the benefits of constructive dialogue for the establishment and maintenance of harmonious labour relations. The Committee expects the Government to continue to take any necessary measures to facilitate such negotiations between the parties.
- (b) The Committee requests the Government to provide to the Committee of Experts further information on the practical application of section 13(3) of the IRA, as amended, in particular on the interaction between the legislative restrictions on negotiable issues and the possibility to raise questions of a general character in this regard, and refers this legislative aspect of the case to the Committee of Experts.
- (c) Given the Government's commitment to address the concerns raised in this case, the Committee requests the Government to continue to engage with the parties with a view to solving any outstanding issues concerning the allegations of anti-union termination or suspension of NUBE members and to ensure that, where appropriate, adequate remedies are provided to the concerned workers, allowing for reinstatement and compensation. It also requests the Government to provide information on the outcome of the judicial proceedings in the two cases concerning allegations of anti-union dismissals of NUBE representatives.
- (d) The Committee trusts that the Government will remain vigilant as to any future dismissals or other measures targeting the complainant's members, so as to ensure that they are not motivated by anti-union reasons and that the NUBE is allowed to conduct its activities in a climate that is free from harassment, threats or efforts to discredit the union or its leaders. It also trusts that the police and other State authorities are regularly sensitized to trade union rights, so as to avoid harassment or intimidation of unionists by public authorities.

49. In its communication dated 16 December 2022, the National Union of Bank Employees (NUBE), the complainant in this case, alleges that the Government has not taken any actions in relation to the recommendations made by the Committee and has continued to fail to provide protection against anti-union acts by the Hong Kong and Shanghai Banking Corporation (HSBC) Bank Malaysia Berhad (hereinafter: the bank) against the complainant and its members, as well as non-compliance with agreements concluded between the complainant and the bank, and deliberate delays in the negotiation of a new collective bargaining agreement.

50. In particular, the complainant indicates that the number of pending disputes filed under sections 8, 39(a) and 59(d) of the Industrial Relations Act against the bank increased to 300 complaints, and that the Government does not make any attempt to resolve them. Among the alleged anti-union actions by the bank, the complainant refers to the outsourcing of union members' job functions, falsely promoting union members so as to restrict trade union membership, and obstruction of access to the workplace. The complainant contests the Government's previous observations that it has met with the parties multiple times to facilitate the resolution of the issues. According to the complainant, only one inspection was conducted but had not resulted in any actions by the Ministry of Human Resources, despite confirmation by the inspection of the genuine nature of the complaints. The complainant further alleges that the difficulty concerning anti-union discrimination cases also relates to the concurrent jurisdiction of the Industrial Court and the Common Law Court and lengthy judicial procedures.

¹ [Link to previous examination.](#)

The complainant believes that the Ministry of Human Resources is favouring the bank over the complainant and alleges in this respect that while various complaints made by the complainant against the bank since 2019 remain pending, a complaint filed by the bank in 2021 to prevent the union from carrying out its legitimate activities was referred to the Industrial Court by the Ministry of Human Resources. Furthermore, concerning the alleged anti-union dismissals of two union officials in September 2018, the complainant indicates that the cases of these officials were only heard by the Industrial Court in August 2022, after the officials had been unemployed for four years, which had resulted in serious concerns with regard to their income and livelihoods.

51. The complainant provides additional information in relation to the alleged non-compliance with an outsourcing and restructuring agreement concluded in 2010 between the bank and the complainant. The complainant reiterates that the unilateral implementation of restructuring schemes, outsourcing and retrenchment of workers on a very large scale, as carried out by the bank without any consultation, was in breach of that agreement and the applicable collective agreement. It adds that the decision of the High Court, which declared the 2010 outsourcing and restructuring agreement legally invalid because it was not submitted to the Industrial Court for official recognition, was challenged and scheduled to be heard by the Court of Appeal in March 2023. The complainant claims that the bank deliberately avoided submitting the agreement to the court. The complainant indicates that the lack of any response or measures to prevent the bank from outsourcing, despite numerous appeals and reminders, had led the complainant to file an application against the Minister of Human Resources in the High Court (Civil Court) in April 2022. The complainant further alleges that the bank continues to show a non-cooperative attitude in refusing to attend meetings of the Standing Committee set up under that collective bargaining agreement and has continued to delay negotiations for a new collective agreement for the period of 2022–25, following the expiration of the collective agreement for the period of 2019–22.
52. The complainant further indicates that on 30 August 2022, it organized a peaceful picket in front of the bank's premises with over 500 members. It alleges that during the picketing, around 50 police officers harassed, intimidated, and obstructed the picketers, taking close-up photos and threatening arrest for participation in the picket, which had been previously announced to the police. The complainant also refers to the assault of four union officials by police officers, during the course of which one union official was dragged with the intention to make him fall and cause him injury. The complainant alleges that false accusations of obstructing and insulting the police were made in the aftermath of this industrial action against two union officials to cover up the wrongful actions of the police during the picket. It alleges that in September 2022, two of their union officials were separately summoned, with one of them, Mr Chee, being arrested and charged in November 2022 for the above-mentioned offences under the Penal Code and Minor Offences Act, with his bail having been set above the maximum amount foreseen in the law. The complainant adds that it lodged a complaint to the Department of Integrity and Standard Compliance against the police for abuse of power, and the investigation is ongoing.
53. The Government provides its observations in communications dated 30 September 2022, 3 February, 12 September and 20 February 2023, and 10 September 2024.
54. Concerning the Committee's recommendation (a), the Government indicates that both parties have agreed to use the dispute settlement procedure provided for in their collective agreement.

55. With regard to recommendation (c), the Government indicates that in February 2023, the Industrial Court awarded Ms Sarimah and Mr Sethupathy reinstatement to their former or an equivalent position in the bank, without loss of seniority, service, bonuses, or other benefits, monetary or otherwise, including salary adjustments and increments that would have been earned had the claimants not been dismissed. It adds that the dispute over the unfair dismissal has been resolved by the parties, and that no further complaints have been received by the Ministry of Human Resources through the Department of Industrial Relations.
56. With regard to recommendation (d), the Government expresses its commitment to ensure that all parties, including unions, members of the unions, enforcement agencies and state authorities are aware of and adhere to national policies and regulations, including trade union rights, in upholding social justice and industrial harmony.
57. *The Committee welcomes the information provided by the Government concerning the February 2023 decision of the Industrial Court regarding Ms Sarimah and Mr Sethupathy, who the Government indicates have both been awarded reinstatement to their former or an equivalent position in the bank, without any loss of seniority, service, bonuses, or other benefits, including salary adjustments and increments that would have been earned had the claimants not been dismissed. The Committee further notes from the Government's response that the dispute has been resolved by the parties, and that no further complaints have been received. Finally, the Committee notes with respect to recommendation (b) that the Committee of Experts on the Application of Conventions and Recommendations has taken up this matter in its 2024 comment as requested.*
58. *The Committee observes from the complainant's allegations in 2022 that there were 300 anti-union cases pending at the Ministry of Human Resources under sections 8, 39(a) and 59(d) of the Industrial Relations Act and that, more generally, issues relating to anti-union discrimination cases include lengthy judicial procedures. The Committee notes that the complainant contests the Government's previous observations as to the level of efforts undertaken by the Ministry of Human Resources to resolve the relevant issues. While the Government indicates that no new further complaints have been received at the Ministry of Human Resources, the Committee observes that it does not specifically refer to the numerous cases that the complainant stated were pending in 2022. While the range of measures referred to by the complainant are both vast and general, the Committee wishes to recall as a general matter that anti-union discrimination is one of the most serious violations of freedom of association as it may jeopardize the very existence of trade unions [see **Compilation of decisions of the Committee on Freedom of Association**, sixth edition, 2018, para. 1072]. The Committee expects that, should there be any pending complaints, the Government will ensure that they are rapidly and effectively addressed.*
59. *The Committee notes that the complainant alleges deliberate delays by the bank in the negotiations for a collective bargaining agreement, concerning the period of 2022–25, and the bank's refusal to attend the meetings of the Standing Committee set up under the existing collective bargaining agreement. The Committee notes the Government's indication that both parties have agreed to use the dispute settlement procedure provided for in their collective agreement and requests the Government and the complainant to provide information on the outcome.*
60. *The Committee also notes the complainant's allegations regarding harassment and intimidation of trade unionists by the police during and following a peaceful picket on 30 August 2022. The Committee notes that the complainant refers to criminal charges brought against Mr Chee in November 2022 for obstructing and insulting the police, as well as to ongoing investigations by the Department of Integrity and Standard Compliance following the complainant's application relating to the abuse of power by the police. The Committee notes that while the Government emphasizes that it is committed to ensuring that all parties, including enforcement agencies and state*

authorities, are aware of and adhere to national policies and regulations, including trade union rights, it provides no information with regard to these new allegations. The Committee therefore requests the Government to provide its observations regarding allegations of criminal charges brought against the trade union official, Mr Chee, the current status of that case and of other investigations in relation to the alleged abuse of power by the police.

Case No. 3414 (Malaysia)

61. The Committee last examined this case (submitted in 2021), which concerns allegations of the denial of the right to organize and to collective bargaining at a forestry company, as a result of excessive delays in the legal recognition of a union as the bargaining agent, at its March 2023 meeting [see 401st Report, approved by the Governing Body at its 347th Session (March 2023) paras 549–595].² On that occasion, the Committee made the following recommendations [see para. 595]:
 - (a) The Committee expresses the firm hope that the current process of amendment of the Trade Unions Act will soon come to conclusion, so as to enable all workers to enjoy the right to establish and join organizations of their own choosing and to be represented by them in collective bargaining.
 - (b) The Committee once again requests the Government to review the legislation with a view to ensuring that the definition of managerial and supervisory staff is limited to those persons who genuinely represent the interests of the employers, including, for example, those who have the authority to appoint or dismiss and that any artificial reclassifications are swiftly addressed.
 - (c) The Committee requests the Government to take the necessary measures, in full consultation with the social partners, to review the legal framework governing the procedure for recognition of trade unions for collective bargaining purposes with a view to simplifying and expediting the administrative and judicial processes. The Committee invites the Government to avail itself of the technical assistance of the Office in this regard should it so desire. It further draws the attention of the CEACR to the legislative aspects of this case.
 - (d) The Committee trusts that, bearing in mind the recent legislative amendments and the need to ensure that the exclusion of managerial and supervisory staff is limited to those persons who genuinely represent the interests of the employers, the union will obtain legal recognition for collective bargaining purposes without further delay.
62. The Government provides its observations in communications dated 12 September 2023, and 8 January and 10 September 2024. In particular, the Government informs that following consultations with the social partners and ILO technical assistance, the Industrial Relations Act, 1967, has been amended to include provisions relating to the recognition process. The Government further indicates that it initiated the Trade Unions Act amendment process.
63. As regards recommendation (d), the Committee notes the update provided by the Government concerning the court cases surrounding recognition of the Sabah Timber Industry Employees Union (STIEU). Following the recognition granted to the union by the Minister of Human Resources on 21 November 2018, the company appealed to the High Court which quashed the Minister's decision on 26 February 2020. On 21 March 2024, the Court of Appeal, quashed the High Court's decision by allowing the Minister's appeal for judicial review, and no further appeals have been received on this matter. The Government indicates that despite the court

² [Link to previous examination.](#)

decision, it is unable to proceed with the recognition claim as the company was wound up by a court order on 15 November 2021.

64. *The Committee notes the information provided by the Government. It notes that the company has now ceased to operate. With reference to its previous examination, the Committee notes with regret the excessive delays in the administrative and judicial proceedings relating to the union's claim for recognition, amounting to almost 15 years since the union first claimed recognition. In this respect, the Committee recalls that it had requested the Government to take the necessary measures to review the legal framework governing the procedure for recognition of trade unions for collective bargaining purposes with a view to simplifying and expediting the administrative and judicial processes, and that it had drawn the legislative aspects of this case to the attention of the Committee of Experts on the Application of Conventions and Recommendations (CEACR). It further notes that the CEACR noted the coming into force, on 15 September 2024, of several amendments to the Industrial Relations Act and the Trade Unions Act, and that the CEACR continues to examine the legislative issues relating to the recognition criteria and procedure, as well as the duration of relevant administrative and judicial proceedings, in the framework of the supervision of the application by Malaysia of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). In the absence of any new information from the complainant organization since 2021, the Committee considers that this case is closed and does not call for further examination.*

Case No. 2751 (Panama)

65. The Committee last examined this case, concerning, inter alia, allegations of unjustified dismissals of public sector trade union leaders and investigations conducted by the authorities against trade union leaders, at its June 2013 meeting [see [368th Report](#), paras 74–80]. On that occasion, the Committee expressed its firm expectation that the committees and subcommittees that had been established through the tripartite agreement signed in February 2012 would produce tangible results in the very near future and requested the Government to keep it informed in that respect. It also requested the Government to keep it informed of: (1) the result of the legal proceedings concerning the dismissals of the unionists Mr Andrés Góndola, Mr Víctor Castillo and Mr Andrés Rodríguez Olmos; (2) the result of the handling of the case in the committee on complaints related to freedom of association concerning the dismissal of the unionist Mr Ismael Ruiz; (3) the employment situation of the unionist Ms Jennifer Malca; and (4) the result of the investigation being carried out by the First Anti-corruption Prosecutor's Office on the use of funds for trade union training. Having also observed that the legal provisions governing trade union rights in the public sector were subject to significant restrictions, the Committee requested the Government to submit the matter to tripartite dialogue and to keep it informed in that regard.
66. In its communications received on 24 April 2014 and 29 October 2024, the Government provides the following information: in its Agreement No. 4, signed in March 2015, the committee on complaints related to freedom of association recommended the reinstatement of 37 public sector trade union leaders who had been dismissed, including the 5 trade unionists mentioned above, and the payment of the corresponding back wages, taking into account that their dismissals had in some cases violated trade union privileges and, in general, freedom of association. According to information provided by the Government: (1) Mr Andrés Góndola and Mr Andrés Rodríguez Olmos were reinstated in the Ministry of Education in 2016 with payment of back wages (the former in the same position and the latter in a different position); (2) Mr Víctor Castillo was reinstated in the Ministry of Labour and Workforce Development in 2014 and resigned from his post in February 2021, stating that he was not interested in returning as he had found a better-paid job; (3) Mr Ismael Ruiz was transferred to the National

Migration Service in the Ministry of Public Security as part of a restructuring of the Ministry of the Interior and Justice in May 2011, and was dismissed from the Service in May 2012; and (4) Ms Jennifer Malca was appointed on a temporary basis to a receptionist position at the Panamanian Institute of Sports in January 2016, but announced her decision to terminate her employment with the Institute in November 2018 for professional reasons.

67. *The Committee takes due note of the information provided by the Government, and in particular of the reinstatement of four of the five trade unionists about whom the Committee had requested information. At the same time, the Committee observes that it has not received any information regarding the reinstatement of Mr Ismael Ruiz, the result of the investigation being carried out by the First Anti-corruption Prosecutor's Office on the use of funds for trade union training or the tripartite dialogue on restrictions on the legal provisions governing trade union rights in the public sector. Noting, firstly, that the complainant organizations have not provided any new information on the present case since 2012 and, secondly, that the Committee of Experts on the Application of Conventions and Recommendations is examining the matter of restrictions on the trade union rights of public officials as part of its monitoring of Panama's implementation of the [Freedom of Association and Protection of the Right to Organise Convention, 1948 \(No. 87\)](#) and the [Right to Organise and Collective Bargaining Convention, 1949 \(No. 98\)](#), the Committee considers that this case is closed and does not call for further examination.*

Case No. 2652 (Philippines)

68. The Committee last examined this case, which was submitted in May 2008 at its October 2020 meeting [see 392nd Report, paras 141–148]. The present case concerns several allegations of infringements of the rights to organize and collective bargaining on the part of Toyota Motor Philippines Corporation (hereinafter “the enterprise”), including mass dismissal of over 230 workers following their participation in union activities and strike action. During its last examination of the case, the Committee welcomed the Government's numerous initiatives to reach settlement on the complainant's request for reinstatement or payment of adequate compensation to dismissed workers and firmly encouraged it to continue to take all measures to contribute to reaching an equitable and mutually satisfactory solution for both parties. The Committee also firmly expected the Government to conduct an expeditious investigation into the allegations of harassment against the President of the Toyota Motor Philippines Corporation Workers' Association (TMPCWA) and to ensure that Executive Order No. 70 from 2018, which aims to address the root causes of insurgencies, internal disturbances and other tensions, would not be misused to justify repression against trade unionists.
69. The complainant provides additional information in communications dated 16 December 2022, 11 October 2024 and 9 January 2025, alleging continued attacks against labour activists, including the TMPCWA President, as well as the non-resolution of the 24-year-long dispute concerning compensation to workers dismissed by the enterprise in 2001 (see Case No. 2252, 332nd Report, November 2003).
70. Regarding the pending dispute with the enterprise, which was at the origin of the complaint, the complainant indicates that the enterprise continues to be uncooperative and refuses to accept the union's demands, despite several protests and request letters addressed to it and support groups active on the union's behalf in Japan where the parent company is located. This continuous support demonstrates that the TMPCWA is a legitimate union and that its President is a labour activist and a unionist, not a terrorist. The complainant indicates that, after the change of administration in the country in 2022, it took months for the TMPCWA to meet with officials from the Department of Labour and Employment (DOLE) but once they did meet in November 2022, the outcome was reasonable: (i) the DOLE would grant scholarships to

children of TMPCWA members; and (ii) the DOLE would approach the Japanese Embassy to discuss the long-standing dispute and find a solution.

71. In September 2024, together with its support groups, the TMPCWA launched a publicity action in front of the office of the parent company in Japan to push for negotiations and submitted another protest and request letter to the enterprise. The union was able to conduct two negotiations with representatives of the parent company who assured them that they would relay the union's demands to the relevant department, as they were not allowed to send it to anyone else. According to the complainant, while there was a visible change of attitude from the company, with its representatives being responsive, this did not reflect a genuine engagement to resolve the long-standing dispute as the union had yet to speak to an authoritative representative of the parent company. In December 2024, another meeting was held between one of the support groups and the parent company, but the substance of the dispute was not discussed at all with the company representatives who simply stated that they would refer any requests to the relevant department.
72. The complainant alleges that both the DOLE and the TMPCWA have tried to reach out to the enterprise but to no avail and it is therefore imperative for the parent company to take a stance on this matter and uphold international labour standards. Instead, the parent company is unwilling to take responsibility for the resolution of this case. The complainant therefore urges the Committee to issue strong recommendations to the management of the parent company, which it considers must determine an amicable settlement to the labour dispute.
73. Regarding the situation of Mr Ed Cubelo, the TMPCWA President, the complainant alleges that he received a death threat through a text message on his phone in December 2021 and although the DOLE advised the union to submit a petition for a *writ of amparo* or lodge a criminal complaint, it decided not to do so for lack of resources and fear of public retaliation and arrest for reporting the incident. It was however decided that the union President would cease his public appearances for as long as there was a threat to his life. He moved from one place to another and had to establish special communication channels with his family to avoid leaving traces of his whereabouts. The complainant conjectures that the enterprise could be behind the red-tagging and death threat against the union President, as there were many incidents of red-tagging against the TMPCWA conducted with the enterprise's involvement in the past. At a November 2022 meeting between the union and the DOLE, the parties agreed that the DOLE would issue a general statement upholding protection of workers' rights and if any union leaders were to be arrested, the union could ask assistance to the DOLE. The union also demanded that the TMPCWA President be delisted from red-tagging, since the DOLE was part of the Inter-Agency Government Office in charge of the red-tagging list.
74. The complainant further alleges that, in January 2024, Mr Cubelo was included among roughly 30 respondents in a resolution adjudicated by the Department of Justice (DOJ) concerning attempted murder and prosecuted under the Anti-Terrorism Act of 2020 and the Philippine Act on Crimes Against International Humanitarian Law, Genocide and other Crimes against Humanity. The complainants in this criminal case, all of whom were from the military or other State forces, claimed that Mr Cubelo was part of the New People's Army (NPA) and that he was involved in an armed encounter against a squad leader on 8 October 2023. According to the TMPCWA, these accusations are false as Mr Cubelo was at an event in Taguig City with his daughter on the day of the alleged armed encounter. Furthermore, until May 2024, when another union notified it about the existence of the criminal case, the TMPCWA had not received any information with regard to the complaint pending against its President, a copy of the complaint or any evidence supporting it. It alleges that the complainants in the criminal case deliberately provided an incorrect address to prevent Mr Cubelo from participating in the

preliminary investigation and to deprive him of his right to contest the charges brought against him. In these circumstances, the union's legal counsel consulted with the Office of the City Prosecutor and the Office of the Provincial Prosecutor in Malolos, Bulacan, as well as the Office of the Clerk of Court in the Regional Trial Court, Third Judicial Region in Malolos, Bulacan, all of whom confirmed that Mr Cubelo had no pending criminal case against him. In September 2024, the legal counsel nevertheless filed an entry of appearance and a motion to dismiss (for lack of sufficient evidence to warrant trial with prayer to suspend/defer the issuance of warrant of arrest) and on the same day, the Regional Trial Court released a joint order dismissing the cases for lack of probable cause.

75. The complainant maintains that this incident was an attempt to fabricate a non-bailable criminal case against Mr Cubelo to prevent him from pursuing his lawful work as a public personality in the field of labour and was aligned with the campaign of the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC) against progressive groups and individuals that are suspected to have links to armed communist underground organizations. According to the complainant, these fabricated charges involving red-tagging of the TMPCWA President constitute a continuing attack against the union because of its efforts to advance the two-decade-long struggle which forms the basis of the present case and has had a big impact on trade unions in the country as it demonizes the right to self-organize. Union organizers often receive arrest warrants without any knowledge or due process of law, based on fabricated charges, and these cases are generally non-bailable, suppressing workers' union rights. The complainant further considers that the enterprise had full knowledge of the fabricated charges against Mr Cubelo and that it utilizes the trend of red-tagging in the country to discourage legal organizations from conducting mass demonstrations and other activities against multi-national corporations.
76. Finally, the complainant states that on 6 December 2024, it received an invitation from the DOLE Region III Office in Central Luzon to attend a meeting at the Regional Tripartite Monitoring Body (RTMB) in San Fernando City, Province of Pampanga. The union declined the invitation stating that the venue was inconvenient and inaccessible as it was very far and unfamiliar to the union President or any of the union members, none of them residing close by, and that the enterprise has never had a factory in the region. The union also replied that it would prefer to meet DOLE officials located in the national office in Intramuros, Manila, as it had requested several times in 2024 without receiving a reply. The DOLE therefore suggested a meeting with the newly appointed Director of the DOLE Bureau of Labour Relations (BLR), during which an agreement was reached to conduct a joint effort in appealing to the ILO for new and stronger recommendations and the DOLE also proposed to further discuss the matter with the Japanese Embassy and suggested for the union to also consult the ILO Country Office in the Philippines.
77. The Government provides its observations in communications dated 24 April 2023, 10 January and 12 March 2025. Concerning the original allegations, the Government reiterates that they have long been judicially resolved and addressed with finality by the Supreme Court, which pronounced itself on the validity of the dismissals and the non-entitlement to severance pay of the dismissed workers. Despite this, the enterprise offered financial assistance to the dismissed workers and, out of 233 workers, 158 accepted the compensation. The DOLE then engaged with both parties, but they failed to agree on the amount of compensation for the 75 remaining dismissed workers who refused to avail themselves of the initial compensation offered by the enterprise. As part of the out-of-the-box solution, the DOLE presented the parties with a proposal for a Livelihood Project financed by the DOLE and the enterprise, as well as a scholarship programme for qualified dependants of the dismissed workers; 12 such

scholarships were granted to support tertiary education and other members may avail themselves of such scholarship grants. The Government indicates that although specific measures continue to be implemented, the union continues to demand certain payments from the enterprise. The lack of resolution of the dispute can therefore be attributed to several factors: the excessive amount claimed by the TMPCWA; the position of the enterprise that its earlier financial gesture offered but not accepted by the union, already satisfies the Committee's recommendations; and the validity of the dismissals and the non-entitlement to a severance pay of the dismissed workers, as ruled upon with finality by the Supreme Court.

78. The Government provides updates on the steps it has taken in this regard, indicating that several meetings were held between the TMPCWA and the DOLE in November 2022, October 2024 and February 2025, during which the DOLE informed that the scholarship programme would continue for qualified dependants of the dismissed union members and that the DOLE would also meet with officials from the Japanese Embassy to discuss the pending labour concerns. While the TMPCWA acknowledged the conclusive settling of the issue by the Supreme Court, it nevertheless reiterated its request for the DOLE to continue its efforts to bring the enterprise back to the negotiating table. The DOLE also met with the Japanese Embassy in April and June 2023 and asked for assistance to reopen the dialogue with the parent company in Japan, but the Embassy informed that although it had relayed the TMPCWA's request, the management pointed out that the union had previously declined its financial offer. Given the circumstances, the Government finds it difficult to bring the parties to resume dialogue, let alone to negotiate. It nevertheless affirms that it will continue to implement the measures it has adopted to assist the concerned union members and will continue to engage with the TMPCWA, the enterprise and the Japanese Embassy on the possibility of reopening the negotiations. The latest meeting with the enterprise took place in February 2025.
79. Turning to the complainant's latest communication, the Government puts forward that the complainant does not allege any violations of freedom of association by the Government and instead recognizes the Government's sustained efforts to intercede between the parties and pursue out-of-the-box measures to assist the concerned union members in line with the Committee's earlier recommendations. However, what the complainant now seeks is for the Committee to issue strong recommendations to hold the parent company accountable by instructing it to reopen the negotiations with the TMPCWA, so as to come up with an equitable amount of compensation for the dismissed workers. In the Government's view, the complainant's request is outside of the purview of the present case and cannot be considered as additional information. Given its continued efforts to give effect to the Committee's recommendation to ensure that the remaining workers who refused to accept the compensation package offered by the enterprise would be able to receive it, the Government contends that this case should be closed.
80. Regarding the alleged harassment and death threats experienced by the TMPCWA President, the Government considers, from the procedural point of view, that these new allegations, while serious, are insufficient to constitute new evidence that would warrant their examination under the present case. While Mr Cubelo claims that the alleged harassment was intended to intimidate the TMPCWA into abandoning its efforts to seek redress for the dismissed workers and that the enterprise was fully aware of the filing of the criminal charges, the Government asserts that the allegations are not related to the original allegations of the case and that it is the Committee's mandate to assess whether satisfactory evidence has been presented to support the allegations.
81. On the substance, the Government indicates, in relation to the allegations of death threats in December 2021, that the TMPCWA President was advised to submit documentation to serve as

evidence supporting his claim and to contact the nearest DOLE office in case he or other union members receive further threats or experience red-tagging or harassment. The DOLE also facilitated the conduct of capacity-enhancement training of mediators–arbiters, of focal persons from the RTMBs and partner agencies (the police, the army, the DOJ and the Commission on Human Rights (CHR)) to strengthen monitoring, case build-up and reporting and to address red-tagging, harassment and death threats reported by labour activists and union members. The DOLE has not received any report from the mediators–arbiters that Mr Cubelo had sought their assistance.

82. In relation to the criminal charges filed against Mr Cubelo in 2024, the Government informs that on 19 January 2024, the Office of the Provincial Prosecutor in Cabanatuan City, Nueva Ecija, indeed issued a resolution recommending the filing of information for violation of section 4(a) and 4(d) of Republic Act (R.A.) No. 11479 (Anti-Terrorism Act of 2020) against more than 30 individuals, including Mr. Cubelo, who was unaware of the proceedings until May 2024 when another union informed him thereof. On 3 September 2024, Mr Cubelo filed a motion to dismiss the cases and the Regional Trial Court in Malolos, Bulacan, issued a joint order the next day considering this motion moot, since it had dismissed the cases for lack of probable cause one day beforehand. The Government states that the trial court, based on its evaluation of the prosecution's resolution found that the evidence submitted by the prosecution and the military clearly failed to establish probable cause to justify the issuance of an arrest warrant, which resulted in the immediate dismissal of the cases. The prompt action taken shows that the justice system is fully accessible, functional and equipped with sufficient safeguards to ensure that individuals are not subjected to unwarranted criminal proceedings.
83. The Government also points out that the DOLE has utilized and engaged existing coordinating mechanisms with the aim of preventing similar incidents from occurring in the future. In October 2024, the DOLE referred Mr Cubelo's claims to the RTMB Region III for validation and determination by the social partners whether the case was indeed related to freedom of association and warranted continuous monitoring. In December 2024, the DOLE invited Mr Cubelo to a meeting at the RTMB Region III, both in person and virtually, but he declined both invitations, stating that the venue was inconvenient and inaccessible, and that the enterprise has never had a factory in the Central Luzon Region. The Government explains that, under domestic law, venue is jurisdictional in criminal cases. Since the alleged criminal acts for which Mr Cubelo was charged had taken place in Region III, any assistance Mr Cubelo may have needed from the DOLE could only be facilitated through the RTMB of that region. It was in the exercise of its mandate that the RTMB invited Mr Cubelo to a meeting for him to provide additional information regarding the allegation and to determine possible assistance to address his concerns, but he declined the invitation. Mr Cubelo's allegations were also reported to the Inter-Agency Committee (IAC) under Executive Order No. 23 (EO 23) for the appropriate administrative action by the agency concerned. In addition, the DOLE–IAC secretariat and the RTMB Region III separately notified the CHR for the possible commencement of independent inquiry into this case. The Government informs that Mr Cubelo can also pursue the available remedies for malicious prosecution and labelling, including a petition for *a writ of amparo*, *habeas data* or the filing of administrative, criminal or civil cases for damages against the public officers involved. While Mr Cubelo was advised of possible remedies, he has not pursued any of them and the Government cannot, on its own, initiate these judicial actions. It nevertheless affirms its commitment to take appropriate action to hold the persons concerned accountable in these incidents, when substantiated by evidence.
84. *The Committee notes the detailed additional information provided by the complainant and the Government's reply thereto. The Committee recalls that the pending issues in this long-standing case*

concern repeated allegations of harassment of the TMPCWA President and the complainant's request for the enterprise to pay adequate compensation to workers dismissed in 2001, who refused the original offer of financial compensation. The Committee notes in this regard the complainant's allegations that the enterprise continues to be uncooperative and refuses to accept the union's demand to negotiate to resolve the matter, despite several protest and request letters submitted to it and despite numerous efforts of the DOLE to bring the parties together. The complainant therefore considers that it is the parent company in Japan that ought to take responsibility for the resolution of the case and ensure that the union's demands for compensation to the dismissed workers are renegotiated but it has, so far, not shown genuine engagement to resolve the dispute, even though some negotiations were held with the union. While further acknowledging the out-of-the-box solutions the Government has put in place to provide financial assistance to the dismissed workers, the complainant requests the Committee to issue further strong recommendations to the parent company to ensure that the matter of compensation to the dismissed workers is renegotiated. The Government, for its part, contends that the complainant's request is outside the scope of the present case and that its latest communication does not point to any violations of freedom of association by the Government but rather puts light on its continuous implementation of the out-of-the-box measures to assist the concerned union members, as well as its sustained efforts to bring the parties together and give effect to the Committee's recommendations.

85. While welcoming the Government's implementation of support measures to the dismissed workers and its continuous engagement with the parties, including through assistance of the Japanese Embassy, the Committee understands that the Government has had difficulties bringing the parties to dialogue, let alone to negotiate. In this regard, the Committee regrets to observe that more than 24 years after the mass dismissals that gave rise to the present case, the persistent and fundamental disagreement between the parties, as observed in its previous examination of the case [see 392nd Report, October 2020, para. 146], has prevented them from negotiating, in accordance with the Committee's recommendations, and addressing the complainant's concerns relating to adequate compensation. The Committee must recall that genuine and constructive negotiations are a necessary component to establish and maintain a relationship of confidence and could, in the present case, provide guidance on possible solutions to the complainant's concerns that would be acceptable to both parties. In these circumstances, while acknowledging the differences of opinion, the Committee firmly encourages the Government to continue to take all measures that could bring the parties to the negotiating table and facilitate the dialogue between them on the pending matters, so as to settle this long-standing case and contribute to reaching an equitable and mutually satisfactory solution for both parties. Regarding the complainant's demand to issue strong recommendations to the parent company, the Committee must recall that while complaints may be lodged not only in relation to acts by the Government but also to acts by any public or private authority that curtails the exercise of trade union rights [see **Compilation of decisions of the Committee on Freedom of Association**, sixth edition, 2018, para. 11], the ultimate responsibility for ensuring respect for the principles of freedom of association lies with the Government [see **Compilation**, para. 46]. The Committee therefore addresses its recommendations to governments, and it is for them to take the necessary measures to ensure that, within their jurisdiction, freedom of association is fully implemented, in line with the Committee's recommendations.
86. The Committee further notes with concern the new allegations of harassment against the TMPCWA President, in particular a death threat received by Mr Cubelo on his phone in December 2021 and the filing of fabricated criminal charges against him in January 2024, and observes from the information submitted by the complainant that these incidents have had a considerable impact on the life and union activities of the TMPCWA President. The Committee observes that there is no apparent disagreement between the complainant and the Government on the factual circumstances of the incident or the steps taken by the Government to address it. The Committee observes in this

respect that the DOLE advised on the available judicial measures and on the assistance that its offices could provide after having received supporting documentation but notes that, due to fear of reprisals, no specific action was taken by the union or its President and the DOLE has thus not been in a position to pursue the case further. The Committee must recall in this regard that the exercise of trade union rights is incompatible with violence or threats of any kind, and it is for the authorities to investigate without delay and, if necessary, penalize any act of this kind [see **Compilation**, para. 88].

87. With regard to the allegations of fabricated criminal charges, the Committee notes that both the complainant and the Government provide a similar description of the incident, stating that: (i) in January 2024, the Office of the Provincial Prosecutor in Cabanatuan City, on the basis of a complaint filed by several State agents and members of the military, issued a resolution recommending the filing of criminal charges against 30 respondents, including Mr Cubelo; (ii) he was unaware of these proceedings until May 2024 when he was informed thereof by another trade union; and (iii) in September 2024, the Regional Trial Court in Malolos, Bulacan, dismissed the cases for lack of probable cause. While the complainant claims that these fabricated criminal charges are a form of harassment, in line with broader actions being taken in the country against progressive groups and individuals suspected of having links with armed communist organizations, and constitute a continuing attack against the TMPCWA because of its efforts to seek redress for the dismissed workers, with a significant impact on other trade unions in the country, the Government states that these allegations, while serious, are not linked to the original allegations and should therefore not be examined in the framework of this case. The Government also emphasizes that the prompt action taken by the judiciary shows that the system is fully accessible, functional and equipped with sufficient safeguards to ensure that individuals are not subjected to unwarranted criminal proceedings. While expressing concern at the serious allegations put forward by the complainant that point to the repeated harassment and red-tagging of Mr Cubelo, affecting not only his personal life but also inhibiting his legitimate trade union activities, the Committee takes note of the judicial resolution of this matter, as well as of the additional steps taken by the Government, including the referral of the incident to the relevant RTMB, the IAC and the CHR for validation and monitoring, where appropriate, and the conduct of capacity-enhancing training for relevant State officials. Recalling in this regard that blanket linkages of trade unions to an insurgency have a stigmatizing effect and often place union leaders and members in a situation of extreme insecurity [see **Compilation**, para. 93], the Committee trusts that, in view of its commitment to hold the responsible persons accountable, the Government will continue to take steps to ensure that Mr Cubelo, as well as other trade unionists in the country, can freely exercise their freedom of association rights in a climate free from violence, harassment and threats of intimidation of any kind. The Committee further reiterates its firm expectation that the Government will ensure that Executive Order No. 70 (addressing the root causes of insurgencies, internal disturbances and other tensions) is not misused to justify repression against trade unionists and their legitimate activities.
88. In conclusion, in view of the Government's reiterated commitment to continue to implement out-of-the-box measures to support the dismissed TMPCWA members and to continue to engage with the parties to bring them to negotiate, as well as its expressed commitment to take appropriate action to ensure accountability for incidents of harassment of trade unionists, the Committee expects the Government to continue to do everything in its power to give effect to the Committee's recommendations with a view to ensuring an enabling environment for the exercise of freedom of association. The Committee considers that this case is closed and does not call for further examination.

Status of cases in follow-up

89. Finally, the Committee requests the Governments and/or complainants concerned to keep it informed of any developments relating to the following **53** cases.

Case No.	Last examination on the merits	Last follow-up examination
2096 (Pakistan)	March 2004	October 2020
2603 (Argentina)	November 2008	November 2012
2637 (Malaysia)	March 2009	October 2024
2715 (Democratic Republic of the Congo)	November 2011	June 2014
2797 (Democratic Republic of the Congo)	March 2014	–
2807 (Islamic Republic of Iran)	March 2014	June 2019
2871 (El Salvador)	June 2014	June 2015
2889 (Pakistan)	March 2016	October 2020
2925 (Democratic Republic of the Congo)	March 2013	March 2014
3011 (Türkiye)	June 2014	November 2015
3018 (Pakistan)	June 2023	–
3042 (Guatemala)	March 2024	–
3046 (Argentina)	November 2015	–
3054 (El Salvador)	June 2015	–
3062 (Guatemala)	October 2024	–
3067 (Democratic Republic of the Congo)	October 2024	–
3078 (Argentina)	March 2018	–
3098 (Türkiye)	June 2016	November 2017
3100 (India)	March 2016	–
3104 (Algeria)	March 2017	November 2023
3167 (El Salvador)	November 2017	–
3178 (Bolivarian Republic of Venezuela)	March 2024	–
3180 (Thailand)	March 2017	March 2021
3182 (Romania)	November 2016	–
3183 (Burundi)	March 2017	March 2025
3202 (Liberia)	March 2018	–
3248 (Argentina)	October 2018	–
3257 (Argentina)	October 2018	–
3289 (Pakistan)	June 2018	October 2020

Case No.	Last examination on the merits	Last follow-up examination
3313 (Russian Federation)	November 2021	-
3315 (Argentina)	March 2025	-
3324 (Argentina)	March 2025	-
3339 (Zimbabwe)	March 2022	-
3242 (Paraguay)	March 2025	-
3360 (Argentina)	March 2023	-
3368 (Honduras)	November 2023	-
3369 (India)	November 2022	-
3374 (Bolivarian Republic of Venezuela)	October 2021	October 2024
3380 (El Salvador)	October 2024	-
3388 (Albania)	June 2024	-
3392 (Peru)	June 2024	-
3424 (Cambodia)	October 2024	-
3427 (Togo)	November 2023	-
3430 (Republic of Korea)	June 2023	-
3436 (Republic of Korea)	October 2024	-
3438 (Peru)	October 2024	-
3439 (Republic of Korea)	March 2024	-
3449 (Mexico)	October 2024	-

90. The Committee hopes that these Governments will quickly provide the information requested.

91. In addition, the Committee has received information concerning the follow-up of Cases Nos 1787, 2362 and 2434 (Colombia), 2528 (Philippines), 2566 (Islamic Republic of Iran), 2583 and 2595 (Colombia), 2656 (Brazil), 2684 (Ecuador), 2694 (Mexico), 2699 (Uruguay), 2706 (Panama), 2716 (Philippines), 2723 (Fiji), 2745 (Philippines), 2749 (France), 2753 (Djibouti), 2755 (Ecuador), 2758 (Russian Federation), 2763 (Bolivarian Republic of Venezuela), 2852 (Colombia), 2882 (Bahrain), 2896 (El Salvador), 2902 (Pakistan), 2946 (Colombia), 2948 (Guatemala), 2949 (Eswatini), 2952 (Lebanon), 2954 (Colombia), 2976 (Türkiye), 2979 (Argentina), 2980 (El Salvador), 2982 (Peru), 2985 (El Salvador), 2987 (Argentina), 2995 (Colombia), 3006 (Bolivarian Republic of Venezuela), 3010 (Paraguay), 3020 (Colombia), 3022 (Thailand), 3024 (Morocco), 3027 (Colombia), 3030 (Mali), 3032 (Honduras), 3043 (Peru), 3059 (Bolivarian Republic of Venezuela), 3061 (Colombia), 3069 (Peru), 3075 (Argentina), 3076 (Maldives), 3095 (Tunisia), 3097 (Colombia), 3103 (Colombia), 3119 (Philippines), 3131 and 3137 (Colombia), 3139 (Guatemala), 3150 (Colombia), 3164 (Thailand), 3171 (Myanmar), 3172 (Bolivarian Republic of Venezuela), 3188 (Guatemala), 3191 (Chile), 3194 (El Salvador), 3210 (Algeria), 3220 (Argentina), 3236 (Philippines), 3240 (Tunisia), 3272 (Argentina), 3278 (Australia), 3279 (Ecuador), 3283 (Kazakhstan), 3285 (Plurinational State of Bolivia), 3287 (Honduras), 3288 (Plurinational State

of Bolivia), 3316 (Colombia), 3317 (Panama), 3323 (Romania), 3341 (Ukraine), 3342 (Peru), 3343 (Myanmar), 3347 (Ecuador), 3359 (Peru), 3364 (Dominican Republic), 3375 (Panama), 3385 (Bolivarian Republic of Venezuela), 3386 (Kyrgyzstan), 3397 (Colombia), 3402 (Peru), 3404 (Serbia), 3407 (Uruguay), 3408 (Luxembourg), 3410 (Türkiye), 3412 (Sri Lanka), 3415 (Belgium), 3420 (Uruguay), 3421 (Colombia) and 3437 (Ecuador) which it will examine as swiftly as possible.

Closure of follow-up cases

92. In its November 2018 report (GB.334/INS/10), the Committee informed the Governing Body that, from that moment onwards, any cases in which it was examining the follow-up given to its recommendations, for which no information has been received either from the government or from the complainant for 18 months since the last examination of the case would be considered closed. At its current session, the Committee applied this rule to the following Cases Nos 3192 and 3232 (Argentina), 3370 (Pakistan), 3376 (Sudan) and 3433 (Republic of Korea).

Case No. 3434

Interim report

Complaint against the Government of Algeria

presented by

the Trade Union Confederation of Productive Workers (COSYFOP)

supported by

- Public Services International (PSI) and
- the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)

Allegations: The complainant organizations allege that the authorities are interfering in the work of COSYFOP and hindering its trade union activities; anti-union measures and judicial harassment towards members of the organization; and amendments to the law that would result in criminal punishment for trade union activity in the case of the dissolution of an organization or even classifying certain trade union activities as terrorism

93. The Committee last examined this case (submitted in 2022) at its March 2024 meeting, when it presented an interim report to the Governing Body [see 405th Report, paras 68–188, approved by the Governing Body at its 350th Session (March 2024)].³

³ [Link to previous examination.](#)

94. The complainant organization submitted additional information in communications dated 11 February and 7 and 9 April 2025.
95. The Government sent its observations in communications dated 14 April and 27 August 2024 and 13 January and 10 April 2025.
96. Algeria has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) and the Workers' Representatives Convention, 1971 (No. 135).

A. Previous examination of the case

97. During its previous examination of the case, in March 2024, the Committee made the following recommendations [see 405th Report, para. 188]:
 - (a) Taking into account the difference in opinion between the Government and the complainant with regard to the refusal of the authorities to register the change in the leadership body of COSYFOP, the Committee requests both parties to provide additional information about the obtaining of COSYFOP's constitutional statement and its old statutes.
 - (b) The Committee invites COSYFOP to provide information about the trade union organizations that are affiliated with it, in particular to specify whether these include the National Union for the Railway Sector (SNSTF), the National Union for the Ammonia/Fertilizer Sector (SNSAE), the National Union for the Marketing and Distribution of Petroleum Products Sector (SNSCDPP), the National Union of Energy Workers (SNT Energie) and the National Union of Industrial Workers (SNSI).
 - (c) The Committee requests the Government to provide information about the registration by the authorities of the COSYFOP bureau led by Mr Benheddad, specifying in particular whether this bureau includes representatives of the originally affiliated organizations or whether it has submitted the original statutes, like the administration required of the complainant organization.
 - (d) The Committee requests the complainant to provide any information available to it on the functioning of the two factions of COSYFOP and to detail any interference or intervention from the authorities in the conduct of their respective activities.
 - (e) The Committee requests the Government to specify whether the closure of the COSYFOP headquarters was done with a legal warrant. If not, the Committee urges the Government to take immediate measures to permit COSYFOP to have free access to its headquarters and to hold trade union meetings there without any interference.
 - (f) The Committee urges the Government to ensure that article 87 bis of the Criminal Code is not applied to the normal activities of trade unions and employers' organizations, in particular when it comes to a call to strike, protests or peaceful calls for a change in government. The Committee requests the Government, in consultation with the social partners, to monitor the impact that this provision has already had and is likely to have, to ensure that it does not affect the exercise of freedom of association.
 - (g) The Committee urges the Government to continue to provide information about the legal decisions taken with regard to the trade union leaders cited, in particular those who are subject to criminal proceedings, to provide copies of those decisions and to provide a detailed indication of the follow-up.
 - (h) The Committee requests the Government to provide its observations concerning the situation of the trade union leaders Mr Bennouna and Mr Lahouiri, cited in the communication from the complainant dated 22 December 2023.
 - (i) The Committee urges the Government to commit to ensuring that Mr Mellal, Mr Kouafi and Mr Kherroubi can return to the country to carry out their trade union activities in an environment free of violence, pressure or threats.

- (j) The Committee requests the Government to identify, in consultation with the social partners, the best way to guarantee that the penalties under article 60 cannot be imposed in cases of voluntary dissolution. The Committee requests the Government to indicate any measures taken or envisaged in this respect.
- (k) The Committee firmly urges the Government to make contact with COSYFOP in order to find a way out of the difference of opinion concerning the election of its leaders, in order to facilitate the registration process. The Committee expects the Government to indicate any measures taken in this respect.
- (l) The Committee firmly urges the Government to implement its recommendations without delay in order to ensure an environment in which trade union rights are respected and guaranteed for all trade union organizations, and workers are able to join the union of their choice, elect their representatives and exercise their trade union rights without fear of reprisals and intimidation.
- (m) The Committee refers the legislative aspects of this case to the Committee of Experts on the Application of Conventions and Recommendations.

B. The complainant's additional information

98. In communications dated 11 February and 7 and 9 April 2025, the complainant organization provides the following additional information:

Change in leadership of COSYFOP

99. The complainant organization reiterates that it is not requesting reregistration, as it has been legally registered since 1991. The Trade Union Confederation of Productive Workers (COSYFOP) calls on the Government to stop contesting the results of the 2018 union elections, which led to a change in the organization's leadership. This change was made in line with Act No. 90/14 on the exercise of freedom of association, which does not require reregistration following a change in the leadership of an already registered trade union. COSYFOP has complied with all procedures concerning changes in the leadership of trade union organizations under article 17 of Act No. 90/14.
100. The complainant organization also points out that the Government's refusal to recognize the change in its leadership constitutes a violation of the right to organize and interference in its internal affairs. This refusal is contrary to the position of the Committee on Freedom of Association, which considers that "the organization of elections should be exclusively a matter for the organizations concerned, in accordance with Article 3 of Convention No. 87" [see 336th Report, Case No. 2353, para. 864; 340th Report, Case No. 2411, para. 1397]. According to the complainant organization, the Government is breaching national legislation guaranteeing the independence of trade unions and the right of workers to elect their representatives freely pursuant to Act No. 90/14. While the Ministry of Labour is empowered to request the dissolution of trade unions, it does not have the capacity to challenge the results of trade union elections or to give its opinion on their conduct. The authorities also lack the legal standing to bring proceedings before the labour courts to have the results of a union's general assembly annulled. Furthermore, the authorities' refusal to recognize the results of the elections at the 2018 COSYFOP general assembly also contravenes article 500 of the Code of Civil and Administrative Procedure, which confers exclusive jurisdiction on labour courts to rule on internal trade union disputes, including those concerning the annulment of elections. In accordance with article 800 of the Code, administrative courts have exclusive jurisdiction to rule on disputes between an administrative entity and an association. Consequently, under the applicable legal framework, the authorities cannot, under any circumstances, refuse to recognize the results of trade union elections or annul them, since they can apply to the

administrative courts only to request the dissolution of a trade union organization in cases strictly defined by law.

101. With regard to the Committee's recommendations requesting additional information about the obtaining of COSYFOP's constitutional statement and its old statutes (recommendation (a)) and an indication of affiliated organizations (recommendation (b)), the complainant organization states that COSYFOP was legally established and registered on 4 February 1991 as a trade union confederation, becoming the second officially recognized trade union confederation in Algeria. At its constituent assembly, COSYFOP was composed of three trade unions: (i) the National Union for the Railway Sector (SNSTF); (ii) the National Union for the Ammonia/Fertilizer Sector (SNSAE); and (iii) the National Union for the Marketing and Distribution of Petroleum Products Sector (SNSCDPP). The complainant organization asserts that these three founding unions of COSYFOP have not had any representatives since 1994. However, this situation does not call into question the registration of COSYFOP, whose bureau and general assembly comprise representatives of unions rather than of the organizations themselves.
102. According to the complainant organization, in 2017, the Ministry of Labour published a list of registered trade unions, the majority of which were fictitious and had no representatives. This situation was brought to the attention of the International Labour Conference in June 2019, when it was highlighted that the Government of Algeria uses these fictitious trade unions to deceive monitoring bodies and create the illusion of trade union pluralism. Most of the registered trade unions no longer had representatives, who had been repressed and forced by the security services to withdraw from the trade union scene. This was the case in particular for COSYFOP in the energy and oil sectors. As a result, it was possible to change COSYFOP's leadership instead of setting up another confederation, which would never have been registered given the authorities' resistance, as demonstrated by their refusal to register the Autonomous General Confederation of Workers in Algeria (CGATA) despite the recommendations of the high-level mission and the ILO supervisory bodies.
103. In 2017, a meeting was held with the founding members of COSYFOP, including its former President, Mr Ben Ibrir Benzaid, its former Secretary-General, Mr Hanifi Hamek, who died in 2020, and its treasurer, Mr Said Ait Rahmane. They confirmed the legal existence of COSYFOP and encouraged the revival of the trade union confederation. According to the former COSYFOP leaders, the organization ceased its activities in March 1994 following internal sabotage and death threats against its leaders during the period of civil unrest. However, they never voluntarily dissolved the organization, which therefore still exists legally. They accepted new individual members, together with the National Union of Industrial Workers (SNSI) and the National Union of Energy Workers (SNT Energie) as new unions affiliated to the trade union confederation. These affiliated organizations were thus able to convene a general assembly to elect new COSYFOP leaders. Lastly, the founding members of COSYFOP agreed to hand over all the confederation's documents (statutes, stamps and membership cards) to the newly elected bureau members. In this regard, Mr Said Ait Rahmane was appointed to ensure the handover of responsibilities after the "changeover" general assembly.
104. Following the meeting with the founding members of COSYFOP, and in accordance with the organization's statutes, a "changeover" general assembly was convened in 2018 by the union representatives of the SNSI and SNT Energie. A new set of statutes was adopted, and Mr Raouf Mellal was elected as the new President of COSYFOP for a five-year term. Once COSYFOP's restructuring had been officially announced in a national newspaper, in line with article 17 of Act No. 90/14, Mr Said Ait Rahmane handed over COSYFOP's responsibilities and documents.

The complainant organization has forwarded the email received from Mr Said Ait Rahmane regarding the handover of documents.

105. Furthermore, the complainant organization states that the trade unions that were members of COSYFOP at the time of its founding assembly in 1990, namely the SNSTF, the SNSAE and the SNSCDPP, have not had any representatives since 1994. The complainant organization reports that it has 26 affiliated trade unions, including SNT Energie and the SNSI, and provides a list.
106. According to the complainant organization, in response to the statement published on the Ministry of Labour's Facebook page on 13 January 2024 calling on registered trade unions to report to it on Sunday, 28 or Monday, 29 January 2024, the organization's Secretary-General reported to the Ministry on 28 January 2024 to receive COSYFOP's registration details. He was informed that COSYFOP was not concerned by the call. On 26 March 2024, COSYFOP sent an email to the Ministry of Labour requesting its login details to access the government platform. This request has remained unanswered. In the opinion of the complainant organization, this lack of response demonstrates the Government's refusal to allow COSYFOP to submit evidence of its representativeness to its own institutions.

Cloning

107. With regard to the Committee's request concerning the functioning of the two factions of COSYFOP and to detail any interference or intervention from the authorities in the conduct of their respective activities (recommendation (d)), the complainant organization states that the objective of the formation of the second faction in 2020 is to sabotage the work of organizations and committees affiliated with COSYFOP, saving the authorities from having to step in directly to halt their activities. The complainant organization gives a few examples: (i) the Environmental Protection Committee affiliated with COSYFOP has over 300 members and 200 volunteers working to protect the environment, especially during the summer fires. The second faction of COSYFOP set up a parallel committee to sow confusion and disrupt its activities. Faced with this situation, the Committee's members changed its name to avoid any ambiguity. This change resulted in the parallel committee disappearing; (ii) the trade union at the company TO.MO.CA LABELLE, which is affiliated with COSYFOP, was affected by the formation of a second faction, leading to the disaffiliation of 66 workers. In addition, pressure from the company on the union president, Ms Chemami Ahlem, led to her resignation. Finally, the complainant organization denounces the fact that the Government does not acknowledge the existence of the second faction of COSYFOP in its communications to the Committee on Freedom of Association, whereas in Algeria, it does recognize the faction and facilitates its activities in order to cause confusion, to the detriment of COSYFOP's affiliated organizations.

Anti-union measures against COSYFOP and its members

108. The complainant organization denounces the climate of widespread repression in which no trade union organization can effectively mobilize its members. In particular, the organization denounces the fact that, among the individuals mentioned previously, some leaders are now banned from leaving the country, namely: (i) Mr Amine Felih, founding member of the National Federation of Informal Economy Workers and a leading member of COSYFOP; and (ii) Mr Ramzi Derder, member of the national bureau of the National Federation of Informal Economy Workers, affiliated to COSYFOP. The complainant organization indicates that other trade union leaders are affected by these bans on leaving the country, namely: (i) Mr Hakim Mouhoubi, COSYFOP leader and delegate for the wilaya of Tizi Ouzou, who was prevented from leaving Algeria in 2022 and has been subjected to constant harassment by the authorities since then.

He is now living in hiding; (ii) Mr Hakim Aghelis, President of the National Union of Artisans and of the Trade Union Committee of Human Rights Defenders, who was prevented from leaving Algeria in July 2024 while setting off on holiday with his family; and (iii) Mr Abderrazak Mokrane, leader of the National Federation of Informal Economy Workers, who was prevented from leaving Algeria in June 2024. He was arrested in January 2025 on the pretext of an unpaid fine. Acquitted by a judge after five days in detention, he lost his job after being replaced during his absence.

- 109.** Regarding the situation of trade union leaders Mr Bennouna, member of the COSYFOP National Youth Committee, the bureau for the Algiers wilaya and the National Federation of Informal Economy Workers, and Mr Lahouiri, member of the COSYFOP national bureau (recommendation (h)), the complainant organization reports that the harassment against them has intensified.
- 110.** Mr Lahouiri continues to be harassed by the judicial authorities, which regularly summon him to appear in court. The most recent summons was issued on 10 January 2025 for him to appear before the public prosecutor at the court in Bordj Zemmoura. These summonses are having a dramatic impact on Mr Lahouiri's psychological well-being. Furthermore, the labour inspectorate, which was notified by Mr Lahouiri of his alleged anti-union dismissal, has not yet responded to his request, demonstrating, according to the complainant organization, its inability to defend the rights of trade union leaders.
- 111.** Mr Bennouna is prohibited from leaving the country. He was also ordered by the Public Treasury to pay a fine (€700) imposed by a court decision that was overturned in December 2023. Mr Bennouna had to hire a lawyer and go into debt to defend himself in court. This situation has had a dramatic impact on his psychological well-being.
- 112.** Regarding the Committee's recommendation to the Government to commit to ensuring that Mr Mellal, Mr Kouafi and Mr Kherroubi can return to the country to carry out their trade union activities (recommendation (i)), the complainant organization finds it regrettable that no specific measures have been taken. On the contrary, the intimidation and risks to which these individuals are exposed remain unchanged, forcing them into exile and preventing them from exercising their trade union rights in their country.
- 113.** The individual case of repression against Mr Raouf Mellal, COSYFOP President, has been raised by other international entities, including the Special Rapporteur on the situation of human rights defenders, the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the independence of judges and lawyers, all of whom sent a letter of allegation to the President of the Algerian Republic. The Government has failed to respond to the legitimate and relevant questions raised by the United Nations experts.
- 114.** Moreover, in communications dated 7 and 9 April 2025, the complainant organization reports new instances of harassment against COSYFOP leaders.
- 115.** Mr Ali Mammeri is an active trade union leader within COSYFOP in the wilaya of Oum El Bouaghi and President of the National Union of Civil Servants in the Field of Culture and Art. He is also a leading member of the Trade Union Committee of Human Rights Defenders affiliated with COSYFOP. Mr Mammeri's appointment as a trade union representative was notified to the Ministry of Culture on 17 June 2024. On 28 June 2024, because of his union involvement in his department, the Directorate of Culture and Arts of Oum El Bouaghi decided to transfer him and four of his colleagues to a cinema that lacked adequate working conditions: no suitable

office, no chairs, no heating and no administrative tasks to perform, as the cinema was closed and opened only for rare events during the year. On 16 July 2024, Mr Mammeri asked the authorities to reinstate him to his original position, but they refused in their reply of 17 July 2024, citing service requirements.

116. In addition, Mr Mammeri is subject to constant harassment. He has been arrested and searched several times by the police on the pretext of routine checks as he left work. On 19 March 2025, Mr Mammeri was stopped at his place of work and arrested by individuals in plain clothes accompanied by police officers from the criminal investigation department, without any warrant. His home was searched, and a laptop that did not belong to him was seized without a warrant. It was only after 120 hours in detention, on the evening of 24 March 2025, that Mr Mammeri was allowed to contact his mother to tell her where he was being held. This authorization was granted only after COSYFOP alerted the Working Group on Enforced or Involuntary Disappearances of the Office of the United Nations High Commissioner for Human Rights and following a social media campaign. It was only then that it became known that Mr Mammeri was being held in the wilaya of Constantine, 120 kilometres from the wilaya of Oum El Bouaghi, where he resides. The security authorities allowed his mother, accompanied by his lawyer, to visit him on 26 March 2025. Mr Mammeri confirmed to his lawyer that he had been subjected to torture and ill-treatment by the investigating officers during the first two days of his detention. He was reportedly stripped naked, beaten, insulted and humiliated throughout this period. Terrorized, he was forced by the investigators to sign statements in which he confessed to acts he had never committed. On 27 March 2025, Mr Mammeri was brought before the public prosecutor of the Oum El Bouaghi court without his lawyer being informed. She discovered his presence in court by chance when she saw him being escorted by the criminal investigation police. Mr Mammeri is accused, among other offences, of being in contact with Mr Raouf Mellal, who is considered a terrorist, and with COSYFOP, which is classified as a terrorist organization seeking to overthrow the regime by unconstitutional means. Ali Mammeri is accused of attempting to create and mobilize a group in support of COSYFOP. The charges brought by the investigating judge are as follows: (i) intent to disseminate or publish, through electronic communications or a computer system, information or documents aimed at undermining public order and peace; (ii) condoning, encouraging and financing terrorist and subversive acts; and (iii) deliberate reproduction and publication of documents, printed matter or recordings praising terrorist and subversive acts. These offences are punishable under articles 87 *bis*, 87 *bis* 1, 87 *bis* 4 and 87 *bis* 5 of the Criminal Code and articles 34 and 39 of the Law on the Protection of Administrative Information and Documents.
117. Mr Abdelmadjid Hakim Boussnane was elected COSYFOP Secretary-General at the national congress held virtually on 4 March 2023, in accordance with the organization's statutes and Act No. 90/14 governing the exercise of trade union rights. Mr Boussnane is employed by SONEGAS in the wilaya of Batna. On 8 April 2025, Mr Boussnane was contacted by telephone by the National Directorate of Internal Security of the wilaya of Batna. He was summoned for questioning the following day, 9 April 2025. Mr Boussnane went to the specified premises and was questioned about COSYFOP and its activities, in particular: (i) the legality of the organization; (ii) the organization's most recent statements concerning Mr Mammeri's arrest and the international complaints against the Government; and (iii) his contacts with Mr Raouf Mellal, COSYFOP President. At the end of the interview, he was strongly urged to take all possible measures to ensure that the complaints lodged at the international level were withdrawn.

118. Furthermore, the complainant organization denounces the difficulties encountered by affiliated trade unions (the SNSI and the National Autonomous Union of Public Administration Staff (SNAPAP)), whose leaders are victims of harassment by the authorities. More generally, the complainant organization denounces double standards in the application of new Act No. 23/02 on the exercise of trade union rights, to the detriment of organizations affiliated with COSYFOP, and selective and arbitrary application of the Law by the labour inspectorate in favour of trade unions supported by the Government.
119. The complainant organization requests the Committee on Freedom of Association to urge the Government of Algeria to put an end to all forms of intimidation and pressure against its affiliated organizations, its leaders and trade union members.
120. In conclusion, the complainant organization requests the Committee to: (i) maintain its recommendations to the Government of Algeria, insisting that it provide specific guarantees of the safety of trade union leaders in exile. These guarantees must allow them to return to Algeria without risk of reprisals, torture or arbitrary detention; (ii) request the immediate lifting of the travel bans imposed on trade union leaders, in particular Mr Amine Felih, Mr Ramzi Derder, Mr Abdeljebar Mustapha Bennouna, Mr Hakim Mouhoubi, Mr Hakim Aghelis and Mr Abderrazak Mokrane. In addition, the Government should provide official documents justifying any ban on leaving the country in order to enable the persons concerned to challenge these decisions through legal channels; (iii) urge the Government to stop contesting the results of the 2018 COSYFOP union elections, cease all interference in its internal affairs, respect the right of COSYFOP members to freely choose their representatives and remove the obstacles and administrative barriers hindering its functioning; (iv) request the Bureau for Workers' Activities (ACTRAV) to provide support to COSYFOP, making available all necessary means to ensure the follow-up and implementation of these recommendations; and (v) encourage the Government of Algeria to establish a genuinely inclusive social dialogue, involving COSYFOP and its affiliates, while ensuring continuous communication with the ILO supervisory bodies.
121. The complainant organization reiterates its commitment to dialogue without preconditions with the Government with the specific aim of finding solutions to the issues raised by COSYFOP.

C. The Government's reply

122. In its communications dated 14 April and 27 August 2024 and 13 January and 10 April 2025, the Government replies to some of the Committee's recommendations and recalls that it has, on several occasions, provided all relevant information on COSYFOP to the International Labour Office.

Change in leadership of COSYFOP

123. The Government recalls that COSYFOP was registered on 4 February 1991 as an organization comprising three trade unions covering the railway sector, the fertilizer industry and the marketing of petroleum products: (i) the SNSTF; (ii) the SNSAE; and (iii) the SNSCDPP. These three trade unions were not involved in the organization of the general assembly allegedly convened on 30 July 2018 by Mr Raouf Mellal during which he was supposedly elected President of COSYFOP. Moreover, the Government indicates that Mr Mellal exercises the liberal profession of lawyer. Furthermore, it states that Act No. 23/02 of 25 April 2023 on the exercise of the right to freedom of association, published on 2 May 2023, required registered trade union organizations to adapt their statutes to the new legal provisions contained therein within six months of the Act's publication in the Official Gazette, that is, before 2 November 2023, under penalty of the application of articles 62 and 65 of the Act. According to the Government,

the supposed representatives of COSYFOP transmitted their statutes for verification of conformity with the new legal provisions after the deadline, on 14 November 2023. In order to apply the Act and the trade union's statutes, and bearing in mind the illegal manner in which changes were made to COSYFOP's trade union bodies, the Government cannot consider recognizing its supposed representatives. In conclusion, the Government believes that COSYFOP ceased its activities in 1991 and recalls that there is recourse to judicial remedies in case of any dispute.

- 124.** In its communication of 10 April 2025, the Government forwards a statement dated 16 December 2024 signed by some of the members who founded COSYFOP in 1990, in which the signatories state that they have suspended COSYFOP's activities since May 1994 for reasons of their own. The signatories refuse to allow any person or group to act on behalf of COSYFOP and decline all responsibility for the use of the organization's acronym. The statement is signed by Mr Ben Ibrir Benzaid, former President of COSYFOP, Mr Omar Hammar, Mr Achour Keddami, Mr Mohamed Louerrad, Mr Nouredine Hamideche, Mr Habib Halfaoui and Mr Slimane Tidjani. For the Government, this statement leads to the conclusion that COSYFOP, established in 1991, has not been active for three decades. Its name and visual identity have recently been used without the authorization or participation of its founding members, in clear violation of its statutes. In the absence of a general assembly bringing together all its members, a statutory procedure for reactivation or the regular appointment of its representatives, it is clear that the persons who lodged the complaint with the Committee have no trade union legitimacy or representativeness within COSYFOP.

Cloning

- 125.** In response to recommendation (c) of the Committee, requesting the Government to provide information about the registration by the authorities of the COSYFOP bureau led by Mr Benhaddad, the Government indicates that no COSYFOP representative has submitted an application to the competent authorities for a change in leadership. The allegations relating to the registration by the authorities of a COSYFOP bureau led by Mr Benhaddad are therefore groundless.

Closure of COSYFOP premises

- 126.** With regard to the administrative closure of the COSYFOP headquarters (recommendation (e)), the Government recalls that the premises supposedly being used as the trade union's headquarters did not match the address indicated on the receipt issued on submission of COSYFOP's registration documents. No official document concerning a change of address has been submitted by the organization's legitimate leaders to the competent administrative authority.

Anti-union measures against COSYFOP and its members

- 127.** In response to recommendation (g) of the Committee, urging the Government to continue to provide information about the legal decisions taken with regard to certain trade union leaders subject to criminal proceedings, the Government provides the following information: (i) Mr Nacer Hamitouche, COSYFOP representative for the Algiers wilaya, was subject to an investigation opened by the counter-terrorism and cross-border organized crime department of the court of Sidi M'Hamed. He was prosecuted for the crimes of membership of and participation in subversive terrorist organizations or groups, and for the use of information and communication technologies for the recruitment of persons for a terrorist organization, in accordance with articles 79, 87 *bis*, 87 *bis* 12 and 87 *bis* 3 of the Criminal Code. On 9 July 2023,

the court decided to postpone the trial at the request of the persons accused in the case, in order to prepare their defence. The Government reports that Mr Hamitouche then received a trial that was ultimately dismissed. The Government stresses that the information provided demonstrates that Mr Hamitouche was prosecuted for charges wholly unrelated to his trade union activities; (ii) Mr Hicham Khayat, COSYFOP representative for the Blida wilaya, was the subject of an investigation opened by the counter-terrorism and cross-border organized crime department of the court of Sidi M'Hamed. He was also prosecuted individually before the court in Blida for insulting the authorities and inciting an unarmed gathering. The court issued a ruling on 8 June 2022 sentencing him to six months in prison without parole and a fine of 200,000 Algerian dinars. Following an appeal, the court issued a ruling on 19 June 2023 convicting Mr Khayat of the offences of distributing publications harmful to the national interest and inciting an unarmed mob, with a sentence of two years' imprisonment without parole and a fine of 50,000 Algerian dinars. Mr Khayat lodged an appeal. The Government reports that it is awaiting the Supreme Court's decision in the case and stresses that the information provided demonstrates that Mr Khayat was prosecuted for charges wholly unrelated to his trade union activities; (iii) Mr Amine Felih, founding member of the National Federation of Informal Economy Workers and COSYFOP leader, was involved in illegal unpaid activities, such as the unauthorized sale of alcoholic beverages, that were wholly unrelated to the exercise of the legally protected right to organize.

128. With regard to recommendation (h) of the Committee, requesting information on the situation of trade union leaders Mr Abdeljebar Mustapha Bennouna (member of the COSYFOP National Youth Committee and the National Federation of Informal Economy Workers) and Mr Moustapha Lahouiri (member of the COSYFOP national bureau), the Government provides the following information:

- (i) Mr Abdeljebar Mustapha Bennouna, allegedly arrested in September 2023 and sentenced to 18 months in prison without parole, hindering his trade union activities, appeared before the public prosecutor in the court of Larbaa, Blida wilaya, in June 2021 following a request to open an investigation into various offences, including participation in activities intended to undermine public order, the deliberate dissemination of false information to the public and offending the President of the Republic and institutions of State. On 14 July 2022, he was sentenced to one year's imprisonment without parole and a fine of 100,000 Algerian dinars (US\$740). That conviction was upheld on appeal on 18 December 2022, although the prison sentence was overturned and the fine reduced to 50,000 Algerian dinars (US\$370). A cassation appeal was lodged on 21 December 2022.
- (ii) Mr Moustapha Lahouiri, who was allegedly dismissed from his post for anti-union motives, was a contract forest conservation worker in the Bordj Bou Arreridj wilaya, employed on full-time fixed-term contracts from 2016 to 2021. He was recruited for specific periods, generally from June to October, coinciding with periods of increased fire-fighting activity. Public sector contract workers are subject to the provisions of Presidential Decree No. 07-308 of 29 September 2007, which sets out modalities for their recruitment, their rights and obligations, the elements making up their remuneration, regulations relating to their management and the disciplinary system applicable to them. The Government provides copies of Mr Lahouiri's work contracts and indicates that they demonstrate his consent to the terms set out therein. In that regard, the Government refutes the allegations that Mr Lahouiri was dismissed from his post, pointing out that his fixed-term contracts simply expired, with the last ending on 31 October 2021.

129. In response to recommendation (i) of the Committee, urging the Government to commit to ensuring that Mr Mellal, Mr Kouafi and Mr Kherroubi can return to the country to carry out

their trade union activities without pressure or threats, the Government states that Mr Mellal, Mr Kouafi and Mr Kherroubi are Algerian citizens to whom the rights and duties set out in the Constitution and current legislation apply, including the right to choose freely their place of residence and to travel freely within the national territory. The aforementioned persons left the country voluntarily, a right guaranteed to all Algerian citizens in accordance with the provisions of article 49 of the Constitution. Furthermore, no decision, judicial order or other measure has been imposed against them to prevent them from enjoying that right. Lastly, the Constitution and the Code of Criminal Procedure also guarantee their right to defence and to appeal, thereby upholding the principles of due process.

- 130.** In light of the above, the Government believes that the supposed leaders of COSYFOP have no legitimacy and do not represent any national trade union organization. The Government, having provided all the documents in support of its arguments, reiterates that the case should be closed.

D. The Committee's conclusions

- 131.** *The Committee recalls that the present case concerns allegations that the authorities are interfering in the work of the Trade Union Confederation of Productive Workers (COSYFOP) and hindering its trade union activities, adopting anti-union measures and engaging in judicial harassment towards members of the organization, as well as making amendments to the law that would result in criminal punishment for trade union activity in the case of the dissolution of an organization, or even classifying certain trade union activities as terrorism.*
- 132.** *In its previous examination, the Committee noted with concern the seriousness of the allegations and the high number of trade unionists supposedly affected in the present case. It also recalled that the ILO supervisory bodies have been monitoring for several years the difficulties encountered by independent trade unions, including COSYFOP, in exercising their trade union rights and have repeatedly drawn the Government's attention to the legal and practical measures to be adopted to apply Convention No. 87 fully.*
- 133.** *The Committee notes that the recommendations that it formulated in its last examination called on both the Government and the complainant to provide certain additional information on the conditions of the change to the leadership of COSYFOP in 2018, as well as on the number of organizations affiliated to it. The Committee takes note of the information provided by the complainant organization and by the Government on these points.*

Change in leadership of COSYFOP

- 134.** *During its previous examination of the present case, the Committee took note of the difference in opinion between the complainant and the Government on the legitimacy of the new COSYFOP leadership, led by Mr Raouf Mellal, elected at the "changeover" general assembly convened in July 2018. The complainant stated that it had respected its statutes and the existing legislation, while the Government maintained that the change in leadership and amendment of the organization's statutes had been carried out by persons without any trade union affiliation and without respecting the statutory provisions of COSYFOP or the presence of its founding members. The Committee recalls that it expressed the view that, based on the information provided by both the complainant and the Government, the organization of the general assembly and the election of a new bureau did not seem to have infringed the union's statutes or the existing legislation. Nonetheless, the Committee took note of the Government's arguments relating to the absence of the founding members and the original affiliated trade unions and therefore requested additional information about the obtaining of COSYFOP's constitutional statement and its old statutes. Additionally, the Committee invited*

COSYFOP to provide information about the trade union organizations that are affiliated with it, and in particular to specify whether they include the National Union for the Railway Sector (SNSTF), the National Union for the Ammonia/Fertilizer Sector (SNSAE), the National Union for the Marketing and Distribution of Petroleum Products Sector (SNSCDPP), the National Union of Energy Workers (SNT Energie) and the National Union of Industrial Workers (SNSI), which, according to the Government, were part of COSYFOP.

135. The Committee notes that, according to the information submitted by the complainant organization, the SNSTF, the SNSAE and the SNSCDPP ceased all trade union activity in 1994. Moreover, according to COSYFOP, interference in its activities and threats made against its leaders led it to cease its activities in March 1994. COSYFOP, however, supposedly retained its legal existence insofar as it was never dissolved by its leaders, as evidenced by its presence in the list of trade unions registered and accredited by the Ministry of Labour, Employment and Social Security, which was established in 2018. According to COSYFOP, its former leaders, including its President, Mr Ben Ibrir Benzaid, Secretary-General, Mr Hanifi Hamek, and treasurer, Mr Said Ait Rahmane, were contacted in September 2017 with a view to revitalizing the organization and went on to encourage that process by admitting new affiliated organizations, including SNT Energie and the SNSI, and new members. These organizations convened a “changeover” general assembly in accordance with COSYFOP’s statutes. The Committee notes that, following the meeting, the organization’s accreditation and statutes were handed over by the former COSYFOP leaders to the new leaders electronically (a copy of the exchange of emails was provided to the Committee on the Application of Conventions and recommendations (CEACR)).
136. The Committee notes that the complainant organization reiterates that the Government’s refusal to recognize the change in its leadership constitutes an impediment to the exercise of trade union rights and interference in its internal affairs. According to the complainant organization, under the legal framework in force, the authorities cannot, under any circumstances, annul the elections of a trade union organization or refuse to recognize them. They can apply to the administrative courts only to request dissolution in cases strictly defined by law.
137. The Committee also notes the complainant organization’s criticism of the Government’s persistent refusal to allow it to submit evidence of its representativeness. In January 2024, COSYFOP was denied the opportunity offered to registered trade union organizations to obtain the necessary login details to access a government platform on representativeness. Subsequently, its requests for login details remained unanswered by the authorities, while the Government accused it of not being representative. The Committee notes that the complainant organization has provided a list of 26 affiliated trade unions, including the SNSI and SNT Energie.
138. The Committee notes that, for its part, the Government reiterates that COSYFOP’s three founding trade unions were not involved in the organization of the general assembly convened on 30 July 2018. The Government also reiterates that Mr Raouf Mellal, identified as the President of COSYFOP, is not a worker, but exercises the liberal profession of lawyer. Furthermore, the Government previously indicated with regard to SNT Energie and the SNSI, which convened the “changeover” general assembly in July 2018, that the authorities had informed the leaders of those organizations in September 2018 of their non-compliance, particularly with the rules of convening the general assembly as set out in COSYFOP’s statutes.
139. Moreover, the Government indicates that Act No. 23/02 of 25 April 2023 on the exercise of the right to freedom of association, published on 2 May 2023, required registered trade union organizations to adapt their statutes to the new legal provisions contained therein within six months of the Act’s publication in the Official Gazette, that is, before 2 November 2023. COSYFOP transmitted its statutes

for verification of conformity with the new legal provisions; according to the Government, that transmission took place on 14 November 2023, after the deadline set out in law.

- 140.** *Lastly, in its most recent communication of April 2025, the Government forwards a copy of a statement dated 16 December 2024 signed by 7 of the 12 members who founded COSYFOP in 1990, in which the signatories state that they have suspended COSYFOP's activities since May 1994 for reasons of their own. The signatories refuse to allow any person or group to act on behalf of COSYFOP and decline all responsibility for the use of the organization's acronym. The statement is signed by Mr Ben Ibrir Benzaid, former President of COSYFOP, and six other members. The Committee notes that the statement is not signed by the former treasurer, who reportedly forwarded the documents to the new bureau in 2018. The Committee notes that, for the Government, this statement leads to the conclusion that COSYFOP has not been active for three decades. Its name and visual identity have recently been used without the authorization or participation of the founding members, in clear violation of its statutes. Consequently, it is evident to the Government that the persons who lodged the complaint with the Committee have no trade union legitimacy or representativeness within COSYFOP.*

- 141.** *The Committee notes that the complainant and the Government maintain divergent views with regard to the compliance of the change to COSYFOP's leadership body with the organization's statutes and the existing legislation. It recalls that, according to COSYFOP's previous allegations, the authorities did not register the change to its leadership made in March 2023. Lastly, the Committee notes the information provided by the Government according to which COSYFOP's submission of its adapted statutes for verification of their conformity with new Act No. 23/02 in November 2023 allegedly took place after the deadline, for which reason the administration did not examine them. The Committee notes with concern the statement signed by former founding members of COSYFOP refusing to allow any person or group to act on behalf of COSYFOP, which the Government presents in its most recent communication after having contested the legitimacy of the change in COSYFOP's leadership since 2018 through regular communications to the ILO supervisory bodies, including the Committee. The Committee further observes that, according to the complainant organization, even before 2018, applications to register new trade unions often remained unanswered or were considered non-compliant when they came from a group that did not have government approval.*

- 142.** *While the Committee considers that it is not its role to express in the present case an opinion on the legal validity of the statement submitted by the Government or its enforceability in the event of legal proceedings, it takes this new development into account in firmly reiterating its previous recommendation to the Government to remedy a situation that the Committee has described as a restriction of workers' right to choose their representatives and form the organizations of their choice. In these circumstances, taking due note of and encouraged by COSYFOP's willingness to engage unconditionally in dialogue with the Government to follow up the recommendations of the ILO supervisory bodies, including the Committee's recommendations in the present case, the Committee urges the Government to engage in dialogue with the representatives of the complainant organization who are signatories to the complaint so as to seek jointly to address the difficulties they face in obtaining recognition of the umbrella organization and registering it in accordance with the law in force and with the rights of workers to form the organizations of their choice without prior authorization and to join them, and the right of organizations to elect their representatives freely, in compliance with freedom of association. This dialogue should be initiated as soon as possible in order to clarify the situation of the 26 trade union organizations that are allegedly affiliated with the complainant organization. The Committee requests the Government and the complainant to keep it informed of all measures adopted in this regard.*

Cloning

- 143.** *The Committee recalls that the complainant alleged that a parallel COSYFOP general assembly was held in February 2020, without a single affiliated trade union representative present, during which a new bureau led by Mr Zakaria Benheddad was allegedly elected. The complainant further alleged that the leaders of this new bureau sent messages to companies, the ILO supervisory bodies and international trade union federations stating that the COSYFOP bureau led by Mr Raouf Mellal was now illegal. The Committee notes the complainant organization's assertion that the objective of this second faction is to sabotage the work of organizations and committees affiliated with COSYFOP or to sow confusion. The complainant organization provides two examples that had different outcomes: (i) the creation by the second faction of a parallel committee to the Environmental Protection Committee affiliated with COSYFOP. The change made to the Committee's name by its members in order to deal with this situation discouraged the parallel committee, which subsequently disappeared; and (ii) the formation of a second faction of the trade union at the company TO.MO.CA LABELLE, which is affiliated with COSYFOP, leading to the disaffiliation of 66 workers and the resignation of its president, who was put under pressure. According to the complainant organization, although the Government denies the existence of the second faction in its communications to the Committee, it facilitates its activities in Algeria. The Committee notes the Government's indication that no COSYFOP representative submitted an application to the competent authorities to change its leadership bodies. Any allegation referring to the registration by the authorities of a COSYFOP bureau led by Mr Benheddad are allegedly groundless. Moreover, the Committee notes that, despite the additional information provided by the complainant organization, it has scant information on the functioning of the second faction of COSYFOP and on the alleged interference or intervention from the authorities in the conduct of the two factions' respective activities. In these circumstances, the Committee will not pursue the examination of this matter, while strongly reiterating the importance for governments to refrain from any intervention that might limit the right of workers' and employers' organizations to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programmes.*

Closure of COSYFOP premises

- 144.** *The Committee noted with concern the allegations relating to the closure of the COSYFOP headquarters in Algiers in February 2020 by the administrative and security authorities. The Committee requested the Government to specify whether the closure of the COSYFOP headquarters was done with a legal warrant. If not, it urged the Government to take immediate measures to permit COSYFOP to have free access to its headquarters and to hold trade union meetings there without any interference. The Committee observes that, in its reply, the Government merely indicates that the premises supposedly used as the trade union's headquarters do not match the address indicated on the receipt issued on submission of COSYFOP's registration documents and that no official document concerning a change of address has been submitted by the organization's legitimate leaders to the administrative authority. The Committee observes that the change of address is included in the organization's new statutes transmitted originally in 2018 to the administration, which refused to register them. Moreover, it notes that the Government does not refer to any judicial decision ordering the closure of the premises. In these circumstances, the Committee expects that the Government will adopt immediately the necessary measures to allow the representatives of the complainant in this case to have free access to a headquarters for the organization and, while awaiting the resolution of the matter of its recognition or registration, to hold trade union meetings there. The Committee requests the Government to keep it informed of the measures taken in this regard.*

Anti-union measures against COSYFOP and its members

145. The Committee recalls that it previously examined a long list of COSYFOP leaders and affiliated organizations that, according to the complainants, have been subject to discriminatory measures linked to their trade union activities. It observed that legal proceedings were brought against the majority of the trade union leaders for social media posts or defamation and that they were criminally charged for violating public order, voicing offensive sentiments towards the President of the Republic or even supporting acts of terrorism. Without expressing an opinion on whether the convictions in question represented a violation of freedom of association, the Committee observed that, overall, these convictions are related to the expression of opinions in the exercise of trade union mandates, even if the Government disputes the existence of the trade union in question. The Committee takes note of the detailed information provided by the Government concerning certain individual cases (see the Government's reply above). The Committee notes that, in the Government's view, all the cases relate to events wholly unrelated to the trade union activities of the persons involved. While emphasizing the need to respect the law, the Committee believes that the authorities' threatening to press criminal charges in response to legitimate opinions of trade union representatives may have an intimidating and detrimental effect on the exercise of trade union rights [see **Compilation of decisions of the Committee on Freedom of Association**, sixth edition, 2018, para. 237]. The Committee requests the Government to continue to keep it informed of judicial decisions taken with regard to the trade union leaders cited in the present case, particularly those who are subject to criminal proceedings, to provide copies of those decisions and to provide a detailed indication of the follow-up. The Committee also requests the Government to provide, as a matter of urgency, observations on the situation of the trade union leaders mentioned in the most recent communications from the complainant organization dated 7 and 9 April 2025 (Mr Mammeri and Mr Boussnane).
146. The Committee is deeply concerned about the recent allegations made by the complainant organization regarding a climate of widespread repression in which trade union leaders are now banned from leaving the country. The Committee notes that the complainant organization cites the cases of Mr Amine Felih, Mr Ramzi Derder, Mr Hakim Mouhoubi, Mr Hakim Aghelis and Mr Abderrazak Mokrane, all trade union leaders affiliated with COSYFOP. The Committee recalls the importance that it attaches to the principle set out in the Universal Declaration of Human Rights that everyone has the right to leave any country, including one's own, and to return to one's own country, particularly when participation in the activities of organizations of employers or workers abroad is involved [see **Compilation**, para. 192]. The Committee urges the Government to provide, as a matter of urgency, its observations on the reasons for the travel bans imposed on the trade union leaders mentioned in the present case and to take all necessary measures to lift these bans immediately if they are found to constitute anti-union measures.
147. The Committee observed that the context of intimidation hindering freedom of association had led trade unionists to resign their mandates and pushed some into exile, including Mr Raouf Mellal (President of COSYFOP), Mr Abdelkader Kouafi (Secretary-General of COSYFOP), Mr Nacer Hamitouche (COSYFOP representative for the Algiers wilaya), Mr Hamza Kherroubi (former President of the National Union of Personal-Care Workers (SNAS) and President of the Pharmaceutical Industry Workers' Union (STIP)) and Mr Mohamed Essalih Bensdira (President of the National Committee for the Unemployed). In that regard, the Committee noted that COSYFOP had stated that it was ready to engage in dialogue with the Government in order to permit Mr Mellal, Mr Kouafi and Mr Kherroubi to return to the country to exercise their mandates as trade union leaders. Noting the Government's statement that the aforementioned persons left the country voluntarily and that no decision, judicial order or other measure has been imposed to prevent them from travelling freely within the national territory, but also noting the complainant organization's assertion that no specific measures have

been taken to facilitate their return without fear of intimidation, the Committee expects that the Government will commit to ensuring that Mr Mellal, Mr Kouafi and Mr Kherroubi can return to the country, if they so wish, to carry out their trade union activities in an environment free of violence, pressure or threats. The Committee requests the Government to keep it informed of any developments in this respect.

- 148.** *In conclusion, the Committee is deeply concerned about the complainant organization's allegations of an increasingly repressive climate towards trade union leaders. It firmly urges the Government to implement its recommendations without delay in order to ensure an environment in which trade union rights are respected and guaranteed for all trade union organizations, and workers are able to join the union of their choice, elect their representatives and exercise their trade union rights without fear of reprisals and intimidation.*

The Committee's recommendations

- 149.** In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:

- (a) Noting the willingness of the representatives of the complainant organization who are signatories to the complaint to engage unconditionally in dialogue with the Government to follow up its recommendations, the Committee urges the Government to engage in dialogue with these representatives so as to seek jointly to address the difficulties they face in obtaining recognition of the umbrella organization and registering it in accordance with the law in force and with the rights of workers to form organizations of their choice without prior authorization and to join them, and the right of organizations to elect their representatives freely, in compliance with freedom of association. This dialogue should be initiated as soon as possible in order to clarify the situation of the 26 trade union organizations that are allegedly affiliated with the complainant organization. The Committee expects that the Government will adopt immediately the necessary measures to allow the representatives of the complainant in this case to have free access to a headquarters for the organization and, while awaiting resolution of the matter of its recognition or registration, to hold trade union meetings there. The Committee requests the Government to keep it informed of the measures taken in that regard.
- (b) The Committee requests the Government to continue to keep it informed of legal decisions taken with regard to the trade union leaders cited in the present case, particularly those who are subject to criminal proceedings, to provide copies of those decisions and to provide a detailed indication of the follow-up.
- (c) The Committee requests the Government to provide, as a matter of urgency, its observations on the situation of the trade union leaders mentioned in the complainant organization's most recent communications dated 7 and 9 April 2025 (Mr Mammeri and Mr Boussnane).
- (d) The Committee urges the Government to provide, as a matter of urgency, its observations on the reasons for the travel bans imposed on the trade union leaders mentioned in this case (Mr Amine Felih, Mr Ramzi Derder, Mr Hakim Mouhoubi, Mr Hakim Aghelis and Mr Abderrazak Mokrane) and to take all necessary measures to lift these bans immediately if they are found to constitute anti-union measures.
- (e) The Committee expects that the Government will commit to ensuring that Mr Mellal, Mr Kouafi and Mr Kherroubi can return to the country, if they so wish, to

carry out their trade union activities in an environment free of violence, pressure or threats. The Committee requests the Government to keep it informed of any developments in this respect.

- (f) The Committee is deeply concerned about the complainant organization's allegations of an increasingly repressive climate towards trade union leaders. It firmly urges the Government to implement its recommendations without delay in order to ensure an environment in which trade union rights are respected and guaranteed for all trade union organizations, and workers are able to join the union of their choice, elect their representatives and exercise their trade union rights without fear of reprisals and intimidation.

Case No. 3203

Interim report

Complaint against the Government of Bangladesh presented by the International Trade Union Confederation (ITUC)

Allegations: This case concerns allegations of the systematic violation of freedom of association rights by the Government, including through repeated acts of anti-union violence and other forms of retaliation, arbitrary denial of registration of the most active and independent trade unions and union-busting by factory management. The complainant also denounced the lack of law enforcement and the Government's public hostility towards trade unions.

- 150.** The Committee last examined this case (submitted in April 2016) at its March 2024 meeting, when it presented an interim report to the Governing Body [see 405th Report, paras 189–207 approved by the Governing Body at its 350th Session]. ⁴
- 151.** The International Trade Union Confederation (ITUC) submitted additional allegations in a communication dated 19 February 2024.
- 152.** The Government provided its observations in communications dated 9 September and 21 October 2024.
- 153.** Bangladesh has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

⁴ [Link to previous examination.](#)

A. Previous examination of the case

154. At its March 2024 meeting, the Committee made the following recommendations [see 405th Report, para. 207]:

- (a) Concerned that there may be persistent obstacles that impede the full investigation of recurrent acts of anti-union violence, the Committee urges the Government to take the necessary measures to investigate the allegations of physical violence, threats and murder of trade union leaders and members so as to ensure the identification and punishment of perpetrators of such acts in Bangladesh and an end to anti-union violence. The Committee requests the Government to provide detailed information on the measures taken to identify and address the obstacles that may impede full investigation of such allegations and reminds the Government that it can avail itself of the technical assistance of the Office in this respect.
- (b) Deploping the murder of Mr Shahidul Islam, a union organizer for the Bangladesh Garment and Industrial Workers Federation, as well as the violent attack on other unionists accompanying him on 25 June 2023, and noting the information provided by the Government on the steps already taken, the Committee urges the Government to take any further measures necessary to shed full light on the facts and motive of this attack at the earliest date, to determine where responsibilities lie and punish the perpetrators and any instigators so as to avoid recurrence of such acts. The Committee requests the Government to continue to provide information on the measures taken and the evolution and outcome of the case.
- (c) The Committee draws the special attention of the Governing Body to the extreme seriousness and urgent nature of this case.

B. The complainant's additional allegations

155. In its communication dated 19 February 2024, the ITUC provides additional information on the previously denounced murder of Mr Shahidul Islam, the president of the Gazipur unit of the Bangladesh Garment and Industrial Workers' Federation (BGIWF) on 25 June 2023. In particular, it alleges that workers from a garment factory in Gazipur held a protest to demand the payment of two months of wages that the employer failed to pay despite an order from the Gazipur Deputy Commissioner to do so; when Mr Islam was requested to assist the workers to collect their wages, he and his assistants were attacked by a gang, leaving him with fatal injuries. The postmortem report confirmed that the cause of his death was a head injury caused by a blunt object and that he did not have a heart condition. According to the information available to the complainant, workers behind the attack are from the Bangladesh Poshak Sramik Trade Union Federation, which is not specifically active at the concerned garment factory but is active in the surrounding area. The complainant adds that there is currently no union at the concerned factory but that the BGIWF had started organizing workers, which is why Mr Islam was called to assist them with the wage dispute. The complainant alleges that out of the 12 persons arrested for the murder of Mr Islam, 4 were granted bail and that the charge sheet, which provides full details of the police investigation, has not yet been filed. It emphasizes the importance of an independent and transparent investigation into the violent attack against the unionists and the murder of Mr Islam and expresses deep concern that protection of and respect for civil liberties and fundamental human and labour rights is deteriorating in the country.

C. The Government's reply

156. In its communications dated 9 September and 21 October 2024, the interim Government expresses its commitment to upholding the principles of freedom of association and ensuring

that trade union leaders and members can operate without fear of violence or retaliation. The Government acknowledges the concern previously expressed by the Committee about persistent obstacles impeding the full investigation of recurrent acts of anti-union violence and reiterates its steadfast commitment to reducing anti-union violence. It states that the following concrete measures are being taken to address the Committee's recommendations: (i) in the framework of the legislative reform of the Bangladesh Labour Act (BLA), the Government proposed to increase the penalties for violations related to anti-union activities and freedom of association, including stricter punishment for violence or retaliation against union members, ensuring that violators are held accountable under the law; (ii) the Government has launched awareness-building campaigns aimed at educating employers and workers about the importance of freedom of association and collective bargaining, emphasizing the right of workers to form unions without fear of violence or retaliation; (iii) the Ministry of Labour and Employment (MOLE) and the Ministry of Home Affairs, with the support of international organizations, have conducted training programmes for members of law enforcement agencies to sensitize them to freedom of association, trade union rights and the need for unbiased investigations; (iv) preventive measures are being implemented, including increased monitoring of workplaces, particularly in industries with a history of union-related conflicts, as well as consultations with trade union representatives and civil society organizations to better understand the obstacles that may hinder investigations, to address grievances and to prevent escalation of conflicts; and (v) efforts are also being taken to streamline the legal process to ensure swift identification and punishment of perpetrators.

- 157.** Concerning the ready-made garment (RMG) sector, the Government indicates that, in order to ensure peaceful and congenial working environment and maintain normal operation and productivity, 29 committees were formed for eight labour intensive districts, comprising officials from the Department of Labour (DoL) and the Department of Inspection for Factories and Establishments (DIFE). The Government provides details on the role of these committees, which includes, among other actions, resolving unforeseen situations in factories in consultation with employers' and workers' representatives and regular reporting to the MOLE on the labour situation.
- 158.** The Government condemns the murder of Mr Shahidul Islam and the violent attack on the unionists who accompanied him on 25 June 2023 and provides detailed information on the incident. It states that workers from a garment factory in Gazipur were dissatisfied with their employer who failed to make payments on time and requested the assistance of Mr Islam who discussed with the workers on further initiatives in this regard. According to the Government, when Mr Islam and his aides came back to the factory, they were confronted by a group of workers and physically attacked, after which Mr Islam was left lying unconscious. When he was brought to a medical centre, he was declared dead. The Government indicates that the responsible workers come from the Gazipur branch of the Bangladesh Garment Workers' Trade Union Federation and reiterates information provided previously on the measures taken following the incident, in particular the filing of criminal charges against 11 accused, out of which 10 were arrested and detained and 5 of them provided a confession admitting their involvement in the incident. Upon completing the investigation, the police submitted a charge sheet to the court and the trial commenced. Since the trial was initiated, the Government has been observing and monitoring the case to ensure due process of law. The case was heard in November 2024 and the Government remains committed to shedding full light on the facts and motives behind the attack and ensuring that the perpetrators and instigators are held accountable.

159. Finally, the Government recognizes the extreme seriousness and urgency of this case and expresses its commitment to taking all necessary measures to prevent the recurrence of such acts, in particular to reduce anti-union violence and strengthen protection of trade union leaders and members and their rights. It indicates that efforts are already being taken to reinforce security and promote a safe environment for union activities and that it will continue to work closely with the ILO to strengthen its labour rights framework and legal systems and institutions to eliminate obstacles to full and fair investigations of anti-union violence.

D. The Committee's conclusions

160. *The Committee recalls that this case, which was first examined in 2017, concerns allegations of violation of freedom of association in particular through acts of violence, including murder, anti-union discrimination and other retaliatory acts against union leaders and members in numerous enterprises.*
161. *With regard to investigations of allegations of physical violence, threats and murder of trade unionists and measures to be taken by the Government to identify and address obstacles impeding such investigations (recommendation (a)), the Committee welcomes the interim Government's expressed commitment to reducing anti-union violence and ensuring that trade union leaders and members can operate without fear of violence or retaliation. It notes the measures spelled out by the Government, which the Government considers will address these concerns, in particular the proposal to increase penalties for violence or retaliation against union members in the framework of the legislative reform of the BLA, streamlining of legal processes to ensure swift identification and punishment of perpetrators, as well as awareness-raising for workers and employers and training programmes for law enforcement agencies to sensitize them on freedom of association, trade union rights and the need for unbiased investigations. The Committee also takes note of the additional measures indicated by the Government, such as the establishment of Government monitoring committees in the RMG sector to assist with dispute resolution and provide reports on the labour situation, increased monitoring of workplaces, particularly in industries with a history of union-related conflicts, and consultations with trade union representatives and civil society organizations to better understand the obstacles that may hinder investigations, to address grievances and to prevent escalation of conflicts.*
162. *While taking note of the above steps and initiatives, as well as the Government's commitment to reducing anti-union violence, the Committee observes that the Government has not provided details on its assessment of the obstacles that may hinder a rapid and independent investigation of allegations of anti-union violence and recalls that the Government has repeatedly faced difficulties, including in this long-standing case, to investigate such incidents and bring perpetrators to justice, which has not been conducive to the free exercise of trade union rights in the country. The Committee recalls in this regard that it is important that all instances of violence against trade union members, whether these be murders, disappearances or threats, are properly investigated. Furthermore, the mere fact of initiating an investigation does not mark the end of the Government's work; rather, the Government must do all within its power to ensure that such investigations lead to the identification and punishment of the perpetrators [see **Compilation of decisions of the Committee on Freedom of Association**, sixth edition, 2018, para. 102]. Accordingly, the Committee expects the Government to step up its efforts in investigating any pending allegations of physical violence, threats and murder of union leaders and members to avoid impunity for such serious violations. The Committee also requests the Government to keep it informed of further steps taken in relation to the mentioned initiatives and their impact on the investigation of anti-union violence and its reduction, including on the proposed increase of penalties for certain anti-union acts and the streamlining of legal processes, and trusts that these measures will contribute to reducing impunity for such acts. Further*

recalling the extensive technical assistance provided by the Office to the Government, the Committee expects the Government to continue to engage with the social partners concerned in the process of identifying obstacles impeding full investigation of recurrent acts of anti-union violence and exploring concrete ways of effectively addressing them, including, where appropriate, through the establishment of a mechanism to swiftly and independently investigate such allegations, whether committed by private persons or state agents.

- 163.** Concerning the investigation into the murder of Mr Shahidul Islam in June 2023 (recommendation (b)), the Committee takes notes of the additional allegations submitted by the complainant which provide details on the factual background of the incident, clarifying that while there was no union at the garment factory where Mr Islam was killed, the BGIWF had started organizing the workers there, which is why Mr Islam was assisting them with a wage dispute. According to the complainant, the perpetrators of the murder were workers from another union active in the area and at the time of submitting the additional information, the charge sheet had not yet been filed to court. The Committee notes in this regard the information provided by the Government, which describes the factual situation leading to the incident in similar terms as the complainant, adding that measures have already been taken to investigate it and prosecute the perpetrators. The Committee welcomes the progress made in bringing this case to trial and notes, in particular, that a hearing against several accused was held in November 2024 and that the Government has been observing and monitoring the procedure to ensure due process of law. It recalls in this regard that it is important that investigations into the murders of trade unionists should yield concrete results in order to determine reliably the facts, the motives and the persons responsible, in order to apply the appropriate punishments and to prevent such incidents recurring in the future. As concerns allegations that legal proceedings are overly lengthy, the Committee has recalled the importance it attaches to such proceedings being concluded expeditiously, as justice delayed is justice denied. The Committee has also drawn attention to the importance that should be attached to the principle that not only must justice be done, it must also be seen to be done [see **Compilation**, paras 96, 169 and 173]. In light of the above, the Committee requests the Government to keep it informed of progress made in the ongoing court proceedings concerning the murder of Mr Islam, which it expects to be expeditious, and to provide the judgment once issued. Further welcoming the Government's commitment to shedding full light on the facts and motives behind the attack and ensuring that the perpetrators and instigators are held accountable, the Committee urges the Government to take any further measures to this effect and to keep it informed thereof.
- 164.** Finally, welcoming the Government's commitment to taking all necessary measures to strengthen protection of trade union members and their rights, as well as its willingness to continue to work with the Office to strengthen the labour rights framework and legal systems and institutions in the country so as to eliminate obstacles to full and fair investigations of anti-union violence, the Committee expects these efforts, together with full and frank consultations with the social partners, to effectively result in an increased protection of trade unionists and their rights.

The Committee's recommendations

- 165.** In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:
- (a) The Committee expects the Government to step up its efforts in investigating any pending allegations of physical violence, threats and murder of union leaders and members to avoid impunity for such serious violations.
 - (b) The Committee also requests the Government to keep it informed of further steps taken in relation to the mentioned initiatives and their impact on the investigation

of anti-union violence and its reduction, including on the proposed increase of penalties for certain anti-union acts and the streamlining of legal processes, and trusts that these measures will contribute to reducing impunity for such acts.

- (c) The Committee further expects the Government to continue to engage with the social partners concerned in the process of identifying obstacles impeding full investigation of recurrent acts of anti-union violence and exploring concrete ways of effectively addressing them, including, where appropriate, through the establishment of a mechanism to swiftly and independently investigate such allegations, whether committed by private persons or state agents.
- (d) The Committee expects the above measures, together with the interim Government's commitment to strengthen the labour rights framework, to effectively result in an increased protection of trade unionists and their rights.
- (e) The Committee requests the Government to keep it informed of progress made in the ongoing court proceedings concerning the murder of Mr Islam, which it expects to be expeditious, and to provide the judgment once issued. In light of the commitment expressed by the Government, the Committee urges the Government to take any further measures to shed full light on the facts and motives behind the attack and ensure that the perpetrators and instigators are held accountable and to keep it informed thereof.
- (f) The Committee draws the Governing Body's attention to the serious and urgent nature of this case.

Case No. 3184

Interim report

Complaint against the Government of China presented by the International Trade Union Confederation (ITUC)

Allegations: Arrest and detention of eight advisers and paralegals who have provided support services to workers and their organizations in handling individual and/or collective labour disputes, as well as police interference in industrial labour disputes

- 166.** The Committee last examined this case (submitted in February 2016) at its October 2023 meeting, when it presented an interim report to the Governing Body [see 404th Report, paras 208–224, approved by the Governing Body at its 349th Session (October–November 2023)].⁵

⁵ [Link to previous examination.](#)

- 167. The complainant sent additional observations and new allegations in communications dated 24 October 2024.
- 168. The Government forwarded its partial observations in communications dated 12 April and 1 October 2024, and 18 April 2025.
- 169. China has not ratified either the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), or the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. Previous examination of the case

- 170. At its October 2023 meeting, the Committee made the following recommendations [see 404th Report, para. 224]:
 - (a) The Committee once again urges the Government to submit a detailed reply on each of the allegations of arrests, detention, ill-treatment and disappearance of labour activists and their supporters, as set out in Appendix I, as well as criminal charges laid against some and sanctions imposed. The Committee requests the Government to provide full particulars regarding Mr Wang Ji'ao, mentioned in Appendix II.
 - (b) The Committee once again urges the Government to transmit, without further delay, copies of judicial decisions in the cases of Messrs Meng, Wu Lijie, Zhang Zhiyu, Jian Hui, Wu Guijun, He Yuancheng, Song Jiahui, Yang Zhengjun, Wei Zhili, Ke Chengbing, Mi Jiuping, Liu Penghua, Yu Juncong and Li Zhan.
 - (c) The Committee expects the Government to transmit without further delay a copy of the investigation report into the allegations of harsh treatment of the labour activists while in custody which had revealed that Mr Zeng and others were not subject to cruel treatment while in detention.
 - (d) The Committee urges the Government to provide without further delay information on all measures taken or envisaged to ensure adequate protection against anti-union discrimination in law and in practice, to provide a copy of the report on the outcome of the above-mentioned investigation (cases of Messrs Liu Penghua and Yu Juncong) and detailed information on the alleged dismissals of Messrs Mi Jiuping, Li Zhan, Song Yiao, Kuang Hengshu, Zhang Baoyan and Chang Zhongge.
 - (e) The Committee once again urges the Government to take all steps, with the technical assistance of the Office, to facilitate constructive and inclusive dialogue with the social partners with a view to ensuring complete respect for freedom of association, including the right of workers to establish organizations of their own choosing, which implies, in particular, the effective possibility of forming, in a climate of full security, organizations independent both of those which exist already and of any political party, and to ensure the right to peaceful demonstration for workers and employers. It requests the Government to indicate all measures taken or envisaged in this respect.
 - (f) In view of the arbitrary nature of Mr Wang's detention for allegedly advocating for workers' rights in an environment where, as previously concluded by the Committee, the exercise of freedom of association is severely restricted in law and in practice, and in view of the absence of any information on the part of the Government, the Committee urges the Government to ensure the immediate release of this labour activist and to provide detailed observations on the ITUC allegations, including on the situation of Ms Hiang Xueqin.
 - (g) The Committee expects the Government to make additional efforts necessary to submit the remaining information requested without further delay so that the Committee will have available to it all necessary information to examine this case in full knowledge of the facts and once again invites the Government to accept a direct contacts mission to understand better the situation on the ground and resolve any pending matters.

- (h) The Committee expresses its concern that the facts of this case, under examination since October 2016, indicate a systemic problem which has been seen to have had an impact on workers' freedom of association by virtue of the numerous persons arrested, disappeared, and intimidated for having tried to defend workers' collective interests and for whom the Government has consistently failed to provide the detailed information requested by the Committee, including as to whether charges are still pending against any of the labour activists and on the steps taken to ensure complete respect for freedom of association. In light of the persistent failure by the Government to provide detailed information on the above and to take steps to address the Committee's long-standing recommendations, the Committee finds itself obliged to draw the Governing Body's attention to the serious and urgent nature of this case.

B. The complainant's additional allegations

- 171.** In its communication dated 24 October 2024, the International Trade Union Confederation (ITUC) indicates that the Government has shown no intention of bringing legislation into line with the Committee's recommendations or of reviewing and amending the Trade Union Law. The ITUC alleges that under the current legal framework, anyone who expresses a different opinion on laws and practices governing labour and industrial relations in China is considered to be in violation of the Criminal Law.
- 172.** The ITUC recalls that on 11 August 2022, labour activist Mr Wang Jiangbing and women rights activist Ms Hiang Xueqin were charged with inciting subversion of state power under article 105(2) of the Criminal Law. The indictment was not officially released until they were put on trial a year later. On 22 September 2023, both activists were brought before the Guangzhou Intermediate People's Court for trial. Mr Wang Jiangbing was accused of following an overseas anti-China network group while studying in the United Kingdom in 2020, posting false statements on social media to defame China's Government and sociopolitical system, and receiving online training on non-violent movements. After returning from the United Kingdom in November 2020, Mr Wang Jiangbing formed a group and held regular meetings with Ms Hiang Xueqin at his rented apartment to discuss social issues in China and incite participants. According to the ITUC, the prosecutor cited a number of acts by Ms Hiang Xueqin that were allegedly subversive, including: (1) repeatedly publishing articles and remarks on online platforms and social media in China and abroad since 2019, and giving speeches at an international online conference in 2021 that misrepresented and defamed the Government and promoted subversive ideas; (2) attending and participating in an online training course on non-violent movements and social movements around the world conducted by overseas organizations between 2020 and 2021; and (3) conducting ten online training sessions concerning social issues and events at home and abroad to incite discontent against the Government. On 14 June 2024, Mr Wang Jiangbing was sentenced to three and a half years' imprisonment, while Ms Hiang Xueqin was sentenced to five years' imprisonment. The ITUC provides a copy of the decisions. Both activists appealed their sentences and remain in detention at Guangzhou No. 1 Detention Center. On 13 September 2024, Mr Wang Jiangbing and Ms Hiang Xueqin informed their lawyers that their appeals had been heard in secret by the Guangzhou Municipal High Court and that their convictions and sentences had been upheld. The lawyers had not been informed by the court of the hearing, and their clients were not represented by their lawyers at the appeal proceeding. The ITUC condemns the convictions and sentencing of labour activist Mr Wang Jianbing and women's rights activist Ms Hiang Xueqin for subversion of state power. The ITUC considers that their convictions are based solely on their opinions and their organizing and networking activities on labour, social, gender equality and other social and political issues with workers, labour activists, youth and students.

It indicates in this respect that the three-page indictment makes general accusations against the two activists, rather than providing details on what constitutes an act of subversion. It further points out that the offence of subverting state power and the socialist system in China under article 105 of the Criminal Law has no definition. Inciting subversion under article 105(2), which was used to convict the two activists, punishes “whoever incites others by spreading rumours or slander or by any other means to subvert state power or overthrow the socialist system ...”. According to the ITUC, this provision has been used to incriminate speech and opinion. The ITUC further alleges that Mr Wang Jianbing was denied proper medical care and treatment for his illnesses while in detention.

C. The Government’s reply

- 173.** In its communications dated 12 April and 1 October 2024, and 18 April 2025, the Government reiterates that it fully guarantees freedom of association to its citizens and ensures that the exercise of this right is based on the Constitution and relevant laws. It further reiterates that trade union organizations have played an important role in safeguarding the rights and interests of workers. The Government once again emphasizes that when exercising their rights, citizens shall abide by national laws and regulations to uphold the social and public order and ensure the legitimate rights of other people and organizations. The Government once again points out that persons mentioned in this case were investigated and punished not for establishing trade unions or participating in trade union activities, but for using illegal means in the process of dealing with labour disputes and for violating the Criminal Law. The courts and public security bodies handle these cases in strict accordance with the procedures set out in the legislation so that the rights of the parties are effectively safeguarded.
- 174.** Regarding Mr Wang Ji’ao, the Government indicates that on 18 January 2019, he was suspected of theft and imposed the measure of criminal detention by the public security body of Beijing Municipality. On 2 May 2019, this measure was changed to one of obtaining a guarantor pending trial, which was lifted upon its expiration in accordance with the law. Mr Wang Ji’ao got back to his normal life; public security bodies have not taken any coercive measures against him.
- 175.** As for Ms Hiang Xueqin and Mr Wang Jiangbing, the Government indicates that public security bodies in Guangzhou City, Guangdong Province, concluded the investigation involving these two individuals suspected of endangering national security, and lawfully transferred them to the People’s Procuratorate of Guangzhou City for examination and prosecution. On 22 September 2023, the Intermediate People’s Court of Guangzhou City heard their case in accordance with the law and concluded that they had incited others by spreading rumours or slanders or through other means to subvert the state power or overthrow the socialist system, and their acts have constituted the crime of inciting subversion of the state power. Ms Hiang Xueqin and Mr Wang Jiangbing appealed the decision. The Guangzhou Provincial High People’s Court is currently undertaking the second instance procedures. The Government emphasizes that the judicial bodies have handled the cases of Ms Hiang Xueqin and Mr Wang Jiangbing in accordance with law and fully protected their rights in the process. The Government points out that the two individuals were arrested and tried by the judicial authorities on suspicion of endangering national security and inciting subversion of the state power, which has nothing to do with organizing trade unions or participating in trade union activities. In its communication dated 18 April 2025, the Government indicates that Mr Wang Jiangbing has now been released after serving his sentence.
- 176.** The Government provides the following information regarding the individuals mentioned in the appendix:

- Ms Yue Xin: public security bodies handled the case in accordance with the law and ensured that her legitimate rights and interests were protected. Ms Yue Xin lives and works in Beijing, is able to carry out her activities freely and without hindrance, and is not facing any further charges; and
- Messrs He Pengchao, Zheng Shiyu, Liang Xiaogang, Mi Jiuping, Yu Juncong, Liu Penghua, and Li Zhan were subject to criminal compulsory measures by public security authorities because of their attacks on the Shenzhen Jasic Technology Company (hereafter, the technology company) and the police station under its jurisdiction, which seriously disturbed the social order. They were transferred to the investigating authorities for examination and prosecution, and sentenced by the court. They have now been released, and public security bodies have not yet taken any coercive measure against these persons.

177. As for the remaining information requested by the Committee, the Government emphasizes that it has cooperated with the Committee, spent a lot of energy and made tremendous efforts to collect and provide information on persons and the two companies mentioned in this case and provided specific information on how the judicial authorities had fully ensured the legitimate rights and interests of persons concerned. The Government points out that according to the Criminal Procedure Law and its judicial interpretation, there is no legal basis for the Government to provide copies of judicial decisions to international organizations. Since the beginning of the examination of this case, the Ministry of Human Resources and Social Security of China has maintained communication with the Committee and the Office, submitted a large number of replies, repeatedly elaborated on the principles and position of the Government, explained the situation of the persons involved, and requested the Committee to conclude the case as soon as possible. The Government expresses its deep regret at the status of the case and further expresses the hope that the Committee will adhere to an objective and impartial position, take into full consideration the information it has provided and conclude the examination of this case as soon as possible. The Government indicates its willingness to continue to communicate with the ILO in this regard.

D. The Committee's conclusions

- 178.** *The Committee recalls that this case, lodged in February 2016, concerns allegations of arrest and detention on charges of "gathering a crowd to disturb public order" of advisers and paralegals who have provided support services to workers and their organizations in handling individual and/or collective labour disputes.*
- 179.** *The Committee takes due note of the efforts made by the Government to provide information in relation to eight individuals who were reportedly arrested in 2018 – Ms Yue Xin and Messrs He Pengchao, Zheng Shiyu, Liang Xiaogang, Mi Jiuping, Yu Juncong, Liu Penghua, and Li Zhan – mentioned in the appendix. While appreciating the Government's indication that these individuals are currently free and do not face prosecution, the Committee regrets that the Government does not provide any information on the precise charges brought against them and merely refers, in relation to the seven individuals other than Ms Yue Xin, to disturbance of the social order. The Committee finds itself bound once again to urge the Government to submit a detailed reply on each of the remaining allegations of arrest, detention, ill-treatment and disappearance of labour activists and their supporters, as set out in the appendix, as well as any criminal charges laid against them and sanctions imposed.*
- 180.** *The Committee takes due note of the information provided by the Government in relation to Mr Wang Ji'ao, who was listed in Appendix II. It understands that Mr Wang Ji'ao is no longer under investigation or any other coercive measure.*

181. While noting the Government's indication that it has provided information relating to a number of individuals named in the complaint, the Committee observes with deep regret that despite its repeated requests, the Government has yet to provide a copy of the judicial decisions relating to the cases of Messrs Meng and Wu Lijie (convicted of the crime of illegal business operation and sentenced to three years' imprisonment and a fine of 30,000 Chinese yuan renminbi on 13 November 2019), Zhang Zhiyu, Jian Hui, Wu Guijun, He Yuancheng, Song Jiahui (all five convicted of the crime of assembling crowds to disturb public order and sentenced to various terms of probation on 24 April 2020), Yang Zhengjun, Wei Zhili, Ke Chengbing (all three tried on 24 April 2020 on suspicion of provocative offences and sentenced to one year and six months' imprisonment with a three-year probation term) and Mi Jiuping, Liu Penghua, Yu Juncong and Li Zhan (all four sentenced in April 2019 to one year and six months' imprisonment with a three-year probation term for the crime of assembling crowds to disrupt public order). The Committee once again notes with deep regret that the Government has not provided copies of the relevant judicial decisions requested. The Committee notes in this respect that the Government indicates that it cannot provide court judgments as the legislation in force does not provide for such a possibility, which implies that court decisions and judgments are not public. The Committee therefore once again recalls that in cases where the complainants alleged that trade union leaders or workers had been arrested for trade union activities, and the governments' replies amounted to general denials of the allegation or were simply to the effect that the arrests were made for subversive activities, for reasons of internal security or for common law crimes, the Committee has always followed the rule that the governments concerned should be requested to submit further and as precise information as possible concerning the arrests, particularly in connection with the legal or judicial proceedings instituted as a result thereof and the result of such proceedings, in order to be able to make a proper examination of the allegations. The Committee further once again recalls that in many cases, it has asked the governments concerned to communicate the texts of any judgments that have been delivered together with the grounds adduced therefor [see **Compilation of decisions of the Committee on Freedom of Association**, sixth edition, 2018, paras 178–179]. While taking due note of the Government's indication that its court decisions are not public, the Committee is obliged to observe once again the general nature of the accusations against the above labour activists and the absence of detailed information from the Government which, without the corresponding judicial decisions, impedes the Committee's consideration of whether, as the Government maintains, these charges were wholly unrelated to the workers union activities. In these circumstances, the Committee must once again urge the Government to take the necessary measures, including legislative if necessary, to transmit without further delay copies of the judicial decisions in the cases of Messrs Meng, Wu Lijie, Zhang Zhiyu, Jian Hui, Wu Guijun, He Yuancheng, Song Jiahui, Yang Zhengjun, Wei Zhili, Ke Chengbing, Mi Jiuping, Liu Penghua, Yu Juncong and Li Zhan.
182. The Committee recalls the ITUC allegation of a near complete absence of civic space for independent public advocacy or collective labour actions in China exacerbated by digital surveillance and stringent restrictions on and suppression of civil liberties and freedom of expression and, against this background, of the arrest of labour activist Mr Wang Jiangbing and Ms Hiang Xueqin on 19 September 2021. In view of the arbitrary nature of Mr Wang's detention for allegedly advocating for workers' rights in an environment where the exercise of freedom of association is severely restricted in law and in practice, the Committee urged the Government to ensure the immediate release of this labour activist and to provide detailed observations on the ITUC allegations, including on the situation of Ms Hiang Xueqin. The Committee notes with deep regret that the Government's reply is limited to the indication that the case of Ms Hiang Xueqin and Mr Wang Jiangbing was heard in accordance with the law by the Intermediate People's Court of Guangzhou City on 22 September 2023, that these two individuals appealed this decision, and the general statement that their rights were safeguarded in the process. The Committee also notes that in its communication dated 18 April

2025, the Government indicates that Mr Wang Jianbing has been released after serving his sentence. The Committee notes, however, that according to the ITUC communication dated 24 October 2024, Mr Wang Jiangbing and Ms Hiang Xueqin were sentenced to three and a half and five years' imprisonment, respectively, and that their appeals were heard behind closed doors and in the absence of their lawyers. The ITUC also alleges that Mr Wang Jianbing was denied proper medical care and treatment for his illnesses while in detention. With reference to the considerations set out in the paragraph above, the Committee expresses its deep concern that the charges against the two activists, which appear to be related to their labour, social and economic activities and participation in conferences, resulted in their sentencing to prison terms of three and a half and five years. The Committee urges the Government to provide detailed information on the charges brought against them and to transmit a copy of the judicial decision in the appeal cases of Mr Wang Jiangbing and Ms Hiang Xueqin. Given the apparent contradiction between the complainant's allegations concerning his sentencing and the Government's information about his release, the Committee requests the Government to confirm that Mr Wang Jiangbing is no longer being detained and if that is not the case, to ensure his release and that of Ms Hiang Xueqin without delay if they were indeed convicted in relation to their above-mentioned activities. The Committee once again urges the Government to provide detailed observations on the ITUC allegations.

183. The Committee further recalls that it had requested the Government to transmit a copy of the investigation report into the allegations of harsh treatment of the labour activists while in custody which had revealed that Mr Zeng and others were not subject to cruel treatment while in detention. Noting with deep regret the absence of any information in this respect, the Committee is obliged to reiterate its previous request. The Committee urges the Government to transmit a copy of the investigation report to which it had previously referred without further delay.
184. With regard to its previous recommendation regarding the dismissal of workers from the technology company, the Committee once again notes with regret that the Government provides no concrete and specific information on measures taken or envisaged to ensure adequate protection against anti-union discrimination in law and in practice, nor on the alleged dismissals of Messrs Mi Jiuping, Li Zhan, Song Yiao, Kuang Hengshu, Zhang Baoyan and Chang Zhongge. The Committee further notes with regret that the Government does not provide a copy of the report on the outcome of the investigation involving Messrs Liu Penghua and Yu Juncong. The Committee reiterates its previous request and once again urges the Government to provide the information without further delay.
185. The Committee deeply regrets to note the persistent reports submitted by the complainant since 2016 alleging that the Government has arrested, detained and prosecuted labour activists for engaging in peaceful protest to defend the economic and social interests of workers. The Committee recalls that while persons engaged in trade union activities or holding trade union office cannot claim immunity in respect of the ordinary criminal law, the arrest of, and criminal charges brought against, trade unionists may only be based on legal requirements that in themselves do not infringe the principles of freedom of association [see **Compilation**, para. 133]. The Committee further recalls that the detention of trade unionists for reasons connected with their activities in defence of the interests of workers constitutes a serious interference with civil liberties in general and with trade union rights in particular [see **Compilation**, para. 123].
186. The Committee further recalls that it had urged the Government to take all steps, with the technical assistance of the Office, to facilitate constructive and inclusive dialogue with the social partners with a view to ensuring complete respect for freedom of association, including the right of workers to establish organizations of their own choosing, which implies, in particular, the effective possibility of forming, in a climate of full security, organizations independent both of those which exist already and of any political party, and to ensure the right to peaceful demonstration for workers and employers. The Committee regrets that once again the Government merely reiterates that trade

union organizations have played an important role in safeguarding the rights and interests of workers, and that when exercising their rights, citizens shall abide by national laws and regulations to uphold the social and public order and ensure the legitimate rights of other people and organizations. Noting with deep regret the absence of any information on the steps taken to facilitate constructive and inclusive dialogue with the social partners and with the technical assistance of the Office, the Committee reiterates its previous request and expects the Government to provide information on all measures taken or envisaged with a view to facilitating this dialogue in order to ensure complete respect for freedom of association.

- 187.** *The Committee had previously recalled that such grave allegations as examined in this case figure among the terms set out in paragraph 54 of the Special procedures for the examination in the International Labour Organization of complaints alleging violations of freedom of association. The Committee once again expresses its concern that the facts of this case, under examination since October 2016, indicate a systemic problem which has been seen to have had an impact on workers' freedom of association by virtue of the numerous persons arrested, disappeared, and intimidated for having tried to defend workers' collective interests and for whom the Government has consistently failed to provide the detailed information requested by the Committee, including as to whether charges are still pending against any of the labour activists and on the steps taken to ensure complete respect for freedom of association. In light of the persistent failure by the Government to provide detailed information on the above and to take steps to address the Committee's long-standing recommendations, the Committee finds itself once again obliged to draw the Governing Body's attention to the serious and urgent nature of this case. The Committee urges the Government to make additional efforts to submit the remaining information requested without further delay so that the Committee will have available to it all necessary information to examine this case in full knowledge of the facts and once again invites the Government to accept a direct contacts mission to understand better the situation on the ground and resolve any pending matters.*

The Committee's recommendations

- 188.** **In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:**
- (a) **The Committee once again urges the Government to submit a detailed reply on each of the remaining allegations of arrests, detention, ill-treatment and disappearance of 23 labour activists and supporters, as set out in the appendix, as well as any criminal charges brought and sanctions imposed.**
 - (b) **The Committee urges the Government to take the necessary measures, including legislative, if necessary, to transmit without further delay copies of the judicial decisions (or at the least, sufficiently detailed summaries to enable the Committee to examine the trade union nature of their convictions) in the cases of Messrs Meng, Wu Lijie, Zhang Zhiyu, Jian Hui, Wu Guijun, He Yuancheng, Song Jiahui, Yang Zhengjun, Wei Zhili, Ke Chengbing, Mi Jiuping, Liu Penghua, Yu Juncong and Li Zhan.**
 - (c) **The Committee urges the Government to provide detailed information on the charges brought against Mr Wang Jiangbing and Ms Hiang Xueqin and to transmit without delay a copy of the judicial decision in their appeal cases. The Committee further requests the Government to confirm that Mr Wang Jiangbing was released and if that is not the case, to ensure his and Ms Hiang Xueqin's release without delay if they were indeed convicted in relation to their labour, social and economic activities. The Committee once again urges the Government to provide detailed observations on the allegation by the International Trade Union Confederation of a**

near complete absence of civic space for independent public advocacy or collective labour actions in China exacerbated by digital surveillance and stringent restrictions on and suppression of civil liberties and freedom of expression.

- (d) The Committee urges the Government to transmit without further delay a copy of the investigation report into the allegations of harsh treatment of the labour activists while in custody which had revealed that Mr Zeng and others were not subject to cruel treatment while in detention.
- (e) The Committee once again urges the Government to provide without further delay information on all measures taken or envisaged to ensure adequate protection against anti-union discrimination in law and in practice, to provide a copy of the report on the outcome of the above-mentioned investigation (cases of Messrs Liu Penghua and Yu Juncong) and detailed information on the alleged dismissals of Messrs Mi Jiuping, Li Zhan, Song Yiao, Kuang Hengshu, Zhang Baoyan and Chang Zhongge.
- (f) The Committee once again urges the Government to take all steps, with the technical assistance of the Office, to facilitate constructive and inclusive dialogue with the social partners with a view to ensuring complete respect for freedom of association, including the right of workers to establish organizations of their own choosing, which implies, in particular, the effective possibility of forming, in a climate of full security, organizations independent both of those which exist already and of any political party, and to ensure the right to peaceful demonstration for workers and employers. It requests the Government to indicate all measures taken or envisaged in this respect.
- (g) The Committee urges the Government to make additional efforts necessary to submit the remaining information requested without further delay so that the Committee will have available to it all necessary information to examine this case in full knowledge of the facts and once again invites the Government to accept a direct contacts mission to understand better the situation on the ground and resolve any pending matters.
- (h) The Committee expresses its concern that the facts of this case, under examination since October 2016, indicate a systemic problem which has been seen to have had an impact on workers' freedom of association by virtue of the numerous persons arrested, disappeared and intimidated for having tried to defend workers' collective interests and for whom the Government has consistently failed to provide the detailed information requested by the Committee, including as to whether charges are still pending against any of the labour activists and on the steps taken to ensure complete respect for freedom of association. In light of the persistent failure by the Government to provide detailed information on the above and to take steps to address the Committee's long-standing recommendations, the Committee finds itself obliged to draw the Governing Body's attention to the serious and urgent nature of this case.

Appendix

1. Ms Shen Mengyu: graduate of Sun Yat-sen University. Arrested for supporting Jasic workers. Not reachable.
2. Ms Gu Jiayue: graduate of Peking University, taken from her home on 24 August 2018, charged with “picking quarrels and provoking trouble” and is being held under “residential surveillance at a designated place”. Arrested for supporting Jasic workers. Not reachable.
3. Mr Xu Zhongliang: graduate of University of Science and Technology Beijing, detained since 24 August 2018, charged with “picking quarrels and provoking trouble” and is being held under “residential surveillance at a designated place”. Arrested for supporting Jasic workers. Not reachable.
4. Mr Zheng Yongming: graduate of Nanjing Agricultural University, detained since 24 August 2018, charged with “picking quarrels and provoking trouble” and is being held under “residential surveillance at a designated place”. Arrested for supporting Jasic workers. Not reachable.
5. Mr Shang Kai: editor of a leftist media website Hongse Cankao, taken away by Guangdong police on 24 August 2018 from the office of Hongse Cankao. Still missing.
6. Mr Fu Changguo: staff member of a workers’ centre, Dagongzhe, detained since August 2018, charged with “gathering a crowd to disrupt social order”. Unable to identify where he was detained since his arrest. Denied access to lawyers and his family.
7. Mr Yang Shaoqiang: graduate of University of Science and Technology Beijing, taken from his home in August 2018, charged with “picking quarrels and provoking trouble”. Whereabouts unknown. No further information.
8. Mr Tang Jialiang: postgraduate student at Beijing Institute of Technology, forcibly disappeared since early September 2018. Still missing.
9. Mr Zhang Shengye: graduate of Peking University, taken from campus and forcibly disappeared on 9 November 2018. Arrested for supporting Jasic workers. Not reachable.
10. Ms Sun Min: graduate of Peking University, taken away in Guangzhou and forcibly disappeared on 9 November 2018. Arrested for supporting Jasic workers. Not reachable.
11. Mr Zong Yang: graduate of Peking University, taken away in Beijing and forcibly disappeared on 9 November 2018. Arrested for supporting Jasic workers. Not reachable.
12. Mr Tang Xiangwei: worker supporter, taken away by police in Wuhan for supporting Jasic workers and forcibly disappeared on 11 November 2018. No further information.
13. Ms Zheng Yiran: graduate of Beijing Language and Culture University, taken away in Beijing and forcibly disappeared on 9 November 2018. Arrested for supporting Jasic workers. Not reachable.
14. Mr Lu Daxing: graduate of Nanjing University of Science and Technology, taken away in Beijing and forcibly disappeared on 9 November 2018. Arrested for supporting Jasic workers. Not reachable.
15. Ms Li Xiaoxian: graduate of Nanjing University of Chinese Medicine, taken away in Beijing and forcibly disappeared on 9 November 2018. Arrested for supporting Jasic workers. Not reachable.

16. Ms Wang Xiangyi: graduate of Peking University, founder of Qingying Dreamworks Social Worker Centre, taken away by police in Shenzhen and forcibly disappeared on 9 November 2018. No further information.
17. Ms Jian Xiaowei: graduate of Renmin University, staff member of Qingying Dreamworks Social Worker Centre, taken away by police in Shenzhen and forcibly disappeared on 9 November 2018. No further information.
18. Ms Kang Yanyan: graduate of University of Science and Technology Beijing, staff member of Qingying Dreamworks Social Worker Centre, taken away by police in Shenzhen and forcibly disappeared on 9 November 2018. No further information.
19. Ms Hou Changshan: graduate of Beijing Foreign Studies University, staff member of Qingying Dreamworks Social Worker Centre, taken away by police in Shenzhen and forcibly disappeared on 9 November 2018. No further information.
20. Ms Wang Xiaomei: graduate of Nanjing University of Information Science and Technology, staff member of Qingying Dreamworks Social Worker Centre, taken away by police in Shenzhen and forcibly disappeared on 9 November 2018. No further information.
21. Ms He Xiumei: supporter of Qingying Dreamworks Social Worker Centre, taken away by police in Shenzhen and forcibly disappeared on 9 November 2018. No further information.
22. Ms Zou Liping: local trade union staff member, detained in Shenzhen on 9 November 2018, charged with “picking quarrels and provoking trouble”. Taken away by police. Forcibly disappeared. No further information.
23. Mr Li Ao: local trade union staff member, detained in Shenzhen on 9 November 2018, charged with “picking quarrels and provoking trouble”. Taken away by police. Forcibly disappeared. No further information.

Cases Nos 2761 and 3074

Interim report

Complaints against the Government of Colombia presented by

- the International Trade Union Confederation (ITUC)
- the World Federation of Trade Unions (WFTU)
- the Single Confederation of Workers of Colombia (CUT)
- the General Confederation of Labour (CGT)
- the Confederation of Workers of Colombia (CTC)
- the National Union of Workers in the Food System (SINALTRAINAL)
- the Union of Energy Workers of Colombia (SINTRAELECOL)
- the Union of Cali Municipal Enterprise Workers (SINTRAEMCALI) and
- the Single Trade Union Association of Public Employees in the Colombian Prison System (UTP)

Allegations: The complainant organizations allege acts of violence (murders, attempted murders and death threats) against trade union leaders and members

- 189.** The Committee has examined the substance of Case No. 2761 on eight occasions [see 363rd, 367th, 380th, 383rd, 389th, 393rd, 401st and 407th Reports], most recently at its meeting of June 2024, when it examined Case No. 2761 together with Case No. 3074 and submitted an interim report on both cases to the Governing Body [see 407th Report, paras 106–128, approved by the Governing Body at its 351st Session].⁶
- 190.** The Government sent its observations in communications dated 12 March, 3 April and 6 May 2025.
- 191.** Colombia has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Labour Relations (Public Service) Convention, 1978 (No. 151), and the Collective Bargaining Convention, 1981 (No. 154).

A. Previous examination of the case

- 192.** At its meeting in June 2024, the Committee made the following interim recommendations concerning the allegations presented by the complainant organizations [see 407th Report, para. 128]:
- (a) While welcoming the significant actions taken in this regard and in accordance with the policy of recognition and collective reparation for the harm suffered by the trade union

⁶ [Link to previous examinations.](#)

movement and its members, the Committee requests the Government to continue intensifying inter-institutional efforts to, on the one hand, solve and punish all cases of homicide and anti-union violence and, on the other hand, effectively protect members of the trade union movement exposed to risk. The Committee specifically requests the Government to:

- (i) provide detailed information on the identification and punishment of instigators of acts of anti-union violence, the motives of such acts and the efforts made in this regard; and
 - (ii) provide updated information about the measures taken to prevent acts of anti-union violence in the main risk areas at the regional and sectoral level, which the Government brought to the attention of the Committee at its previous examinations of the case.
- (b) While welcoming the results achieved to date, the Committee requests the Government to continue making all necessary efforts to ensure that all the homicides and the attempted homicide of UTP leaders and members reported in this case are solved and that the perpetrators and instigators are convicted, and to provide detailed information on the progress of the investigations under way and on the content of the sentences handed down.
- (c) The Committee draws the special attention of the Governing Body to the seriousness and urgency of this case.

B. The Government's reply

- 193.** In its communication dated 12 March 2025, the Government makes reference to the State policies intended to protect members of the trade union movement against acts of anti-union violence. The Government states firstly that: (i) through ruling No. SU-546 of 2023, the Constitutional Court found the situation of social leaders and human rights defenders – a group that includes trade union leaders – to be an “unconstitutional state of affairs”; (ii) in accordance with the aforementioned ruling and of article 109 of the National Development Plan Act (Act No. 2294 of 2023), the Ministry of the Interior's Human Rights Directorate is moving forward with the development of the comprehensive government policy to safeguard the work of defending human rights and social leadership; (iii) on 11 and 12 March 2025, bilateral meetings were held to agree on the foundations of the aforementioned government policy, with the participation at those meetings of a spokesperson from the trade union movement; and (iv) in accordance with a commitment made at the permanent round table for coordination with trade union confederations, the Ministry of the Interior's Human Rights Directorate provided assistance to the Comprehensive Victim Support and Reparation Unit (UARIV), with a view to sharing the contents of the draft plan of action for the comprehensive government policy with representatives of the trade union movement registered for collective reparation (the Colombian Federation of Education Workers (FECODE), CUT, CTC and CGT).
- 194.** Secondly, the Government recalls that the National Protection Unit (UNP) is promoting actions intended to safeguard the life and integrity of trade union leaders and members who find themselves in situations of extraordinary or extreme risk, through the Prevention and Protection Programme (PPP), which allows for the implementation of various measures that are generated by means of a risk assessment.
- 195.** The Government goes on to provide detailed updated figures on the protection measures provided to members of the trade union movement by the UNP through the PPP. These figures show that, in 2024: (i) 314 risk assessments were conducted; (ii) 245 members of the trade union movement were provided with a protection programme; and (iii) more than 50 per cent of the members of the trade union movement who were provided with protection measures came from 4 of the country's 32 departments (Bogotá, Valle del Cauca, Santander and Norte de Santander).

- 196.** In its communication dated 6 April 2025, the Government refers to the actions carried out to investigate the homicides and other acts of violence against members of the trade union movement and to punish those responsible. In accordance with its institutional commitment to prioritize the protection of specific populations, such as human rights defenders and trade unionists, the Government recalls that the Public Prosecutor's Office has drawn up a Strategy for the investigation and prosecution of homicides of trade union members and human rights defenders, including trade union leaders. Under this strategy, implemented since 2020 under the leadership of the Public Prosecutor, the Public Prosecutor's Office still has the support of the Special Investigation Unit for certain cases of homicide against union leaders, while the Representative for Territorial Security continues to work on cases of homicide in which the victims, although they were trade union members, did not have leadership roles. The Government highlights that the focus on the victimization of members of the trade union movement is a priority institutional objective, established in the Strategic Guidance 2024–2028, under the heading of “experience and innovation in service of justice”. The measures implemented to address the harm suffered by trade unionists also involve the Directorate for High-level Studies, in the design and execution of periodic training programmes for public prosecutors and investigators dealing with these crimes, and the Directorate of International Affairs, which continues to comply with international commitments on the matter. The Government adds that: (i) the victimology protocol for serious human rights violations, drawn up in 2022, continues to be implemented, with the goal of strengthening the attention on and addressing of these cases; (ii) the Public Prosecutor's Office's Representative for Territorial Security carries out exhaustive follow-up of all public prosecutors responsible for these cases at the national level, constantly monitoring the progress of the investigations, with a view to centralizing information on the cases, including data about the victims, the possible motives, the status of the proceedings and the relevant characterization of those proceedings; (iii) links have been strengthened with other institutions, such as the Ministry of Labour, with a view to sharing information about the victims and identifying which of the related cases has certification to prove trade union membership. This inter-institutional collaboration enables the trade union status of the victims to be established precisely.
- 197.** The Government states that, according to information from the aforementioned institution, between 1 January 2017 and 1 December 2024, 132 cases of homicide of members of the trade union movement were reported to the Public Prosecutor's Office, and 3 of those cases are being investigated by the Special Jurisdiction for Indigenous Affairs and 1 in the Military Criminal Court. The Public Prosecutor's Office states that the use of its investigative strategies has enabled progress to be made in 60.16 per cent (77 cases) of the 128 homicides that are being investigated through the ordinary courts, as follows: (i) sentences are being served in 21 cases (convictions); (ii) 1 case ended with a not guilty verdict; (iii) 27 cases are at the trial stage; (iv) charges have been brought in 11 cases; (v) in another 11 cases, arrest warrants have been issued by a judge; and (vi) 6 cases have been closed due to the death of the accused. The Public Prosecutor's Office highlights that significant progress was made in 2024 towards procedural momentum in these homicides (in 2021 progress stood at 43.16 per cent with advances in 41 cases, in 2022, it was at 46.82 per cent with procedural advances in 53 cases, and in 2024, as indicated above, this has increased to 60.16 per cent).
- 198.** The Government states that, in 2024, the Public Prosecutor's Office reports that it was made aware of nine homicide cases of trade unionists, which are being investigated through the ordinary courts. To date, progress has been made in 45 per cent of the investigations, with significant procedural momentum in these cases. In addition, the Public Prosecutor's Office is continuing to monitor the crime of violation of the rights to assembly and association, implementing actions to make progress in the legal proceedings and to improve the training of public prosecutors on these issues.

- 199.** The Government states in addition that, according to the Public Prosecutor's Office, the Specialized Directorate against Human Rights Violations also continued its work in several cases relating to events that occurred between 2011 and 2016. In this regard, in its communication of 6 May 2025, the Government states that the use of the Public Prosecutor's Office's investigative strategies has enabled progress to be made in 45.14 per cent (65 cases) of the 144 cases of homicide (145 victims) committed between 2011 and 2016 that are being investigated through the ordinary courts. In this regard, the Government notes that: (i) sentences are being served in 44 cases, with convictions against 58 people; (ii) 3 cases ended with a not guilty verdict; (iii) 9 cases are at the trial stage; (iv) 3 cases are under investigation with arrest warrants issued by a judge; and (v) 6 cases have been closed due to the death of the accused. With regard to the identification of the perpetrators and instigators of the aforementioned homicides committed between 2011 and 2016, the Government states that through monitoring and study of the convictions obtained, it has been established that, mostly, the actions of the 58 persons convicted were carried out by members belonging to Organized Armed Groups, Organized Crime Groups and Organized Common Crime Groups.
- 200.** The Government then includes the information provided by the Public Prosecutor's Office on the acts of anti-union violence against the leaders and members of the Single Trade Union Association of Public Employees in the Colombian Prison System (UTP) reported under Case No. 3074. Firstly, the Government refers to 43 investigations relating to homicides or attempted homicides reported under Case No. 3074. It states in this regard that: (i) the victims belonged to community action boards or to other trade union organizations; and (ii) procedural advances have been made in 79.07 per cent of cases, which is 34 cases (sentences are being served in 21 cases, 11 cases are at the trial stage and 2 cases have been closed, 1 of which due to the death of the accused).
- 201.** The Government adds that the Public Prosecutor's Office has recorded 23 cases of complaints of threats against members of the UTP that have led to investigations, 2 of which are still active. The Government states that in all cases all possible tools have been used in full application of due diligence.

C. The Committee's conclusions

- 202.** *The Committee recalls that Cases Nos 2761 and 3074 relate to the alleged murder of numerous leaders and members of the trade union movement and to many other acts of anti-union violence. The Committee recalls that in its previous examinations of these cases, it welcomed the significant action taken by the competent authorities to ensure that the fight against anti-union violence constitutes a State priority through broad inter-institutional coordination and took note of the progress reported in the investigations of the acts of anti-union violence.*
- 203.** *With regard to the specific measures taken by the competent authorities to further improve the effectiveness of investigations into acts of anti-union violence, the Committee notes that, after reaffirming that the focus on the victimization of members of the trade union movement is a priority institutional objective, the Government states that: (i) since 2020 the Public Prosecutor's Office is continuing to implement the Strategy for the investigation and prosecution of homicides of trade union members and human rights defenders, including trade union leaders; (ii) the victimology protocol for serious human rights violations, drawn up in 2022, continues to be implemented; (iii) within the Public Prosecutor's Office, under the strategic leadership of the Public Prosecutor, the investigation of homicides of members of the trade union movement has, among other things, the support of the Special Investigation Unit for certain cases of homicide against union leaders, of the Representative for Territorial Security through contacts with all the public prosecutors in the country with a view to centralizing information on the cases, the possible motives, the status of the*

proceedings and the relevant characterization of those proceedings, and the Directorate for High-level Studies for the periodic training of public prosecutors and investigators dealing with those cases.

204. *The Committee also takes note of the information provided by the Government on the results achieved with respect to investigating, solving and punishing the homicides of trade unionists. With regard to the homicides committed between 2011 and 2016, the Government notes that progress has been recorded in 45.14 per cent (65 cases) of the 144 cases of homicide (145 victims) committed between 2011 and 2016 that are being investigated through the ordinary courts. In this regard, the Government informs that: (i) sentences are being served in 44 cases, with convictions against 58 people; (ii) 3 cases ended with a not guilty verdict; (iii) 9 cases are at the trial stage; (iv) 3 cases are under investigation with arrest warrants issued by a judge; and (v) 6 cases have been closed due to the death of the accused. With regard to the homicides committed between 2017 and 2024, the Government indicates that progress has been recorded in 60.16 per cent (77 cases) of the 128 homicides that are being investigated through the ordinary courts, in that: (i) sentences are being served in 21 cases (convictions); (ii) 1 case ended with a not guilty verdict; (iii) 27 cases are at the trial stage; (iv) charges have been brought in 11 cases; (v) in another 11 cases, arrest warrants have been issued by a judge; and (vi) 6 cases have been closed due to the death of the accused. The Government adds that 45 per cent of the nine homicides committed in 2024 already have significant procedural momentum.*
205. *The Committee takes due note of these various elements and once again welcomes the efforts made and the results achieved in the criminal justice response to the homicides of members of the trade union movement. The Committee observes in particular that the number of homicides of members of the trade union movement committed since 2017 that have seen procedural advances (identification of the alleged perpetrator) has risen from 53 in 2022 to 77 at the end of December 2024.*
206. *The Committee also notes that, despite the efforts made and the progress achieved by the criminal justice system, a significant proportion of the homicides of members of the trade union movement committed since the opening of this case remain unsolved and the perpetrators have not been convicted. While taking due note of the Government's indication that the majority of the homicides of members of the trade union movement committed between 2011 and 2016 that led to convictions were carried out by members belonging to Organized Armed Groups, Organized Crime Groups and Organized Common Crime Groups, the Committee also once again notes the absence of detailed data on the identification and conviction of instigators of acts of anti-union violence. The Committee once again emphasizes in this regard that the investigations should focus not only on the individual perpetrator of the crime but also its instigators, with the aim of ensuring that justice is fully done and preventing future acts of violence against trade union members, an aspect that is especially important in the context of Colombia.*
207. *In the light of the above, while welcoming the significant actions taken in this regard, the Committee requests the Government to continue intensifying inter-institutional efforts to solve and punish all cases of anti-union violence. The Committee specifically requests the Government to: (i) in light of the role played by armed organized crime groups in the commission of homicides of members of the trade union movement, provide more details on the support provided by the Special Investigation Unit in the solving of these cases; and (ii) provide detailed information on the identification and punishment of the instigators of acts of anti-union violence and the specific efforts made in this regard.*
208. *With regard to the actions taken by the State to protect members of the trade union movement exposed to risk, the Committee takes note that the Government states firstly that: (i) through ruling*

No. SU-546 of 2023, the Constitutional Court found the situation of social leaders and human rights defenders – a group that includes trade union leaders – to be an “unconstitutional state of affairs”; and (ii) in accordance with the aforementioned ruling and of Act No. 2294 of 2023, the National Development Plan Act, the Ministry of the Interior’s Human Rights Directorate is moving forward with the development of the comprehensive government policy to safeguard the work of defending human rights and social leadership through consultations that include the trade union movement. The Committee also takes note of the detailed updated figures on the protection measures provided to members of the trade union movement by the UNP, according to which in 2024: (i) 314 risk assessments were conducted; (ii) 245 members of the trade union movement were provided with protection measures; and (iii) more than 50 per cent of the members of the trade union movement who were provided with protection measures came from 4 of the country’s 32 departments (Bogotá, Valle del Cauca, Santander and Norte de Santander).

209. *The Committee takes due note of this information. The Committee welcomes the substantial measures taken by the competent authorities to provide protection programmes to members of the trade union movement exposed to risk, as well as the ongoing efforts to develop a comprehensive government policy to safeguard the work of defending human rights and social leadership. Notwithstanding the above, the Committee expresses its deep concern at the persistence of the phenomenon of anti-union violence in the country and, in particular, at the nine homicides of members of the trade union movement committed in 2024, as reported by the Public Prosecutor’s Office.*
210. *In light of the above, the Committee requests the Government to continue its ongoing inter-institutional efforts to prevent acts of anti-union violence, particularly in the geographical areas that are most affected, as well as in the sectors of activity that were indicated in previous communications as being particularly exposed [see 393rd Report, para. 93]. The Committee also requests the Government to: (i) keep it informed about the adoption and implementation of the comprehensive government policy to safeguard the work of defending human rights and social leadership and its impact on the protection of all trade union leaders; and (ii) continue regularly consulting the trade union movement about the design and implementation of the aforementioned protection policies.*
211. *With regard to the acts of anti-union violence against UTP leaders and members reported in Case No. 3074, the Committee takes note of the information from the Public Prosecutor’s Office provided by the Government, according to which: (i) with respect to the 43 investigations relating to homicides or attempted homicides reported in the context of that case, procedural advances have been made in 79.07 per cent of cases, which is 34 cases (sentences are being served in 21 cases, 11 cases are at the trial stage and 2 cases have been closed, 1 of which due to the death of the accused); and (ii) 23 cases have been recorded of complaints of threats against members of the UTP that have led to investigations, 2 of which are still active, and in all cases all available tools have been used in full application of due diligence.*
212. *The Committee takes due note of this information and, in particular, that, since the previous examination of the case, convictions have been handed down in ten more cases of homicides of UTP members. While welcoming this progress, the Committee observes, on the one hand, that it still has not received the requested information on the motives behind the homicides for which convictions were handed down, or on whether the convicted persons were both instigators and perpetrators of the acts and whether the sentencing process identified any links between the individual murders of UTP members and, on the other hand, that the Government states – without providing further details – that the victims were also members of community action boards and other trade unions. In this respect, the Committee recalls that it is important that investigations into the murders of trade unionists should yield concrete results in order to determine reliably the facts, the motives and the persons responsible, in order to apply the appropriate punishments and to prevent such incidents*

*recurring in the future [see **Compilation of decisions of the Committee on Freedom of Association**, sixth edition, 2018, para. 96]. While welcoming the increase in the number of convictions handed down to date, the Committee requests the Government to continue making all necessary efforts to ensure that all the homicides and attempted homicides of UTP leaders and members reported in this case are solved and that the perpetrators and instigators are convicted, and to provide detailed information on the motives behind the homicides for which convictions were handed down as well as on the progress of the investigations under way.*

The Committee's recommendations

213. In light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:

- (a) While welcoming the significant actions taken and the results achieved in this regard, the Committee requests the Government to continue intensifying inter-institutional efforts to solve and punish all cases of anti-union violence. The Committee specifically requests the Government to: (i) in light of the role played by armed organized crime groups in the commission of homicides of members of the trade union movement, provide more details on the support provided by the Special Investigation Unit in the solving of these cases; and (ii) provide detailed information on the identification and punishment of the instigators of acts of anti-union violence and the specific efforts made in this regard.
- (b) Welcoming the substantial measures taken by the competent authorities on the matter, the Committee requests the Government to continue its ongoing inter-institutional efforts to prevent acts of anti-union violence, particularly in the geographical areas and sectors of activity that are most affected. The Committee also requests the Government to: (i) keep it informed about the adoption and implementation of the comprehensive government policy to safeguard the work of defending human rights and social leadership and its impact on the protection of all trade union leaders; and (ii) continue regularly consulting the trade union movement about the design and implementation of the aforementioned protection policies.
- (c) While welcoming the increase in the number of convictions handed down to date, the Committee requests the Government to continue making all necessary efforts to ensure that all the homicides and attempted homicides of leaders and members of the Single Trade Union Association of Public Employees in the Colombian Prison System (UTP) reported in this case are solved and that the perpetrators and instigators are convicted, and to provide detailed information on the motives behind the homicides for which convictions were handed down as well as on the progress of the investigations under way.
- (d) The Committee draws the special attention of the Governing Body to the seriousness and urgency of this case.

Case No. 3271

Interim report

**Complaint against the Government of Cuba
presented by
the Independent Trade Union Association of Cuba (ASIC)**

Allegations: The complainant organization alleges lack of recognition, and harassment and persecution of independent trade unionists, involving acts of aggression, assaults and dismissals of independent trade unionists, and other acts of anti-union discrimination and interference by the public authorities

- 214.** The Committee last examined this case (presented in December 2016) at its October 2023 meeting, when it presented an interim report to the Governing Body [see 404th Report, approved by the Governing Body at its 349th Session (October–November 2023), paras 252–290].⁷
- 215.** The complainant submitted new allegations in communications dated 14 and 28 December 2023, 3, 16 and 29 January, 8 February, 3, 9 and 17 April, 15 May, 22 July, 29 October, 8 November 2024, 14 January, 16 April and 6 May 2025.
- 216.** The Government sent its replies in communications dated 17 and 23 January, 1 and 2 April, 9 May, 23 October 2024, and 3 March 2025.
- 217.** Cuba has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the Workers' Representatives Convention, 1971 (No. 135).

A. Previous examination of the case

- 218.** In its previous examination of the case in October 2023, the Committee made the following recommendations [see 440th Report, para. 290]:
- (a) The Committee once again strongly urges the Government to ensure that the Independent Trade Union Association of Cuba (ASIC) is given recognition and that it can freely operate and carry out its trade union activities.
 - (b) The Committee requests the Government to provide information on the outcome of the investigations carried out and, if applicable, the relevant court rulings in respect of the following union members or officials: Mr Osvaldo Arcis Hernández, Mr Bárbaro Tejeda Sánchez, Mr Felipe Carrera Hernández, Mr Pavel Herrera Hernández, Mr Daniel Perea García, Mr Yisan Zamora Ricardo, Mr Willian Cruz Delgado, Mr Roque Iván Martínez Baldarraín, Mr Jefferson Ismael Polo Mezerene, Ms Anairis Dania Mezerene, Mr Ulises Rafael Hernández López and Mr Leonardo Hernández Camejo.

⁷ [Link to previous examination.](#)

- (c) The Committee requests the Government to send a copy of the court ruling handed down against Mr Humberto Bello Laffita without further delay. The Committee requests the Government to ensure that no workers are arrested for their trade union activities.
- (d) The Committee requests the Government to ensure that ASIC general secretary, Mr Iván Hernández Carrillo, is able to freely carry out his trade union activities without interference.
- (e) The Committee strongly urges the Government to ensure that the right of ASIC officials and members to organize and freely carry out their trade union activities are not restricted, including when these activities are conducted outside the country, or when they involve participation in international online forums.
- (f) The Committee firmly urges the Government to fully ensure that ASIC officials have the freedom of movement in the national territory to carry out their trade union activities, including participation in demonstrations to defend the interests of their members, without Government interference.
- (g) The Committee requests the Government to provide a copy of the outcome of investigations into the dismissals of Mr Ismael Valentín Castro and Ms Dania Marité Noriega Castriz, and of Mr Kelvin Vega Rizo and Pavel Herrera Hernández.
- (h) Given the lack of information in some instances and the lack of progress in others, the Committee invites the Government to accept a direct contacts mission to gather further information, facilitate dialogue between the parties and encourage the implementation of its recommendations.

B. The complainant's new allegations

- 219.** In its communications, the complainant submits specific new allegations of violations of public freedoms of ASIC union officials and members.
- 220.** The complainant alleges that: (i) on 6 November 2023, independent trade unionist Leonardo Hernández Camejo was summoned to present himself at the Centro Habana police unit, where he was interrogated by an official from the Department of State Security (DSE) and warned to give up his activism. He was interrogated again on 27 January 2024, alongside other independent trade unionists (Ulises González Moreno, Yaquelín Dalis Caballero, Emilio Alberto Gottardi Gottardi, Luis Orlando León Randich, Nora Noa, Dayán Ortíz); (ii) on 30 November 2023, Daniel Perea García, ASIC provincial secretary in Santiago de Cuba, was subjected to an interrogation with physical violence by two DSE officials; (iii) on 7 December 2023, independent trade unionist Alejandro Sánchez Zaldívar was summoned to the police unit in the village of Cabañas, in the Artemisa province, to tell him that he could not travel to Havana and that he should stay inside his house; (iv) on 8 December, independent trade unionist Alexis Rodríguez Martínez was arrested in the city of Holguín and taken to the police station in Pedernales until the 21st; (v) on 9 and 10 December, the homes of journalist and independent trade unionist Yunia Figueredo Cruz and of general secretary Iván Hernández Carrillo were besieged by agents of the political police – which included suspending the journalist's internet connection; and (vi) independent trade unionist Rodolfo Aparicio Alemán was arrested on 15 December and again on 12 January 2024 by agents of the National Revolutionary Police (PNR). He was released on 31 January and given a fine of 5,000 Cuban pesos.
- 221.** The complainant also alleges that on Friday 29 March 2024, general secretary Iván Hernández Carrillo was arrested while attempting to travel to Havana for a medical check-up. Members of the patrol detained him and took him to the police unit in La Playa, where he was interrogated by the lieutenant colonel in charge of confrontations in the province and an instructor with the rank of second lieutenant. She (the instructor) issued him with a warning for the alleged

offences of harming the constitutional order and of mercenary activity, which carry sentences of up to 15 years' imprisonment for the former, and death for the latter. Immediately afterwards, agents warned him that, if he continued his trade union activities, next time he would be imprisoned on the aforementioned charges. The complainant goes on to allege that on 8 April, Iván Hernández Carrillo was visited at his home in the city of Colón, the province of Matanzas, by a first lieutenant of the DSE, who attempted to issue him a citation to present himself at the city's Police Training Department for interrogation.

- 222.** The complainant alleges that there were other instances of acts of persecution towards ASIC activists, such as during the First of May celebrations in 2024 (affecting Liván Monteagudo Rivero, provincial secretary of Las Tunas, and Bárbaro de la Nuez Ramírez, general secretary in the province of Cienfuegos), and that these intensified with the approach of the third anniversary of the peaceful protests of 11 July 2021 (Consuelo Rodríguez Hernández, secretary of women workers of ASIC; Lázaro Roberto Aguiar Mendoza, activist in the municipality of Cruces, province of Cienfuegos; Bárbaro de la Nuez Ramírez; journalist Yunia Figueredo Cruz; Emilio Alberto Gottardi Gottardi, general secretary in the province of La Habana, Iván Hernández Carrillo, as well as independent trade unionists Ulises González Moreno and Yaquelín Dalis Caballero). The complainant further alleges that: (i) on two occasions, on 2 May and 23 October 2024, ASIC trade unionist Yoanys Olivera Vicente was detained at the police unit in Cruces, where she was interrogated and threatened with imprisonment if she did not leave the organization, as well as running the risk of losing her employment as a veterinarian in a State institution. In addition, she was asked to work as an informant for them within ASIC; (ii) independent trade unionist Lázaro Aguiar Menoza, an ASIC affiliate and a nurse working in the Integrated System of Emergency Medical Services (SIUM), was arbitrarily detained on 22 October 2024 in the province of Cienfuegos, for theft of equipment, and released apparently without charge on the same day; (iii) provincial secretary of Mayabeque, Ibán Guerra Hernández, was interrogated on 4 January 2025 at the police unit in the municipality of Santa Cruz del Norte, Mayabeque province, by a DSE lieutenant colonel who threatened the trade unionist with imprisonment for sharing information through social media, warning that the secret political police was spying on and monitoring ASIC's information and communication spaces; and (iv) independent trade unionist Emilio Gottardi Gottardi was also arrested on 10 January by two men in civilian clothes, identified as DSE agents, at the Centro Habana police unit, where he was subjected to constant questions and threats relating to his trade union work, warning that he risked serious consequences if he did not give up his commitment to ASIC. The complainant highlights that the persons concerned did not have the assistance of a lawyer, they were threatened without formal request or any grounds that the proceedings had any legal standing, which demonstrated that the regime was constantly monitoring ASIC's trade union activity.
- 223.** The complainant highlights that the aforementioned facts demonstrate the systematic violence of the State against ASIC, which it intends to dismantle in order to silence its struggle to defend the rights of workers and to cover up its mission to report on the regime's frequent violations against the population. The complainant insists that all the complaints it has made to the ILO supervisory bodies strictly reflect the lived reality of independent trade union leaders, activists and workers, and that – although the Government of Cuba has not wanted to formally recognize ASIC as a trade union organization – it is recognized by workers and entrepreneurs, as it is a real option for social organization in the country. In its communication dated 17 April 2024, the complainant alleges that there are 1,035 political prisoners being held in sub-human conditions in the country's prisons, given summary judgements stemming from the peaceful demonstrations of 11 July 2021, many of whom are young workers whose only

offence was to peacefully protest against the regime. The complainant expresses the wish for a direct contacts mission to be carried out.

C. The Government's reply

- 224.** With regard to recommendation (a) in the Committee's previous report (recognition and free operation of ASIC), the Government once again states, in its communication dated 23 October 2024, that: (i) the members of the organization that calls itself ASIC are neither workers nor employers; they do not belong to any labour collective and therefore have not been elected or appointed by the members as trade union representatives; they do not have the objective of promoting or defending workers' interests, nor do they have the genuine support of the membership or any labour collective; and (ii) the complainants operate under the agendas of the International Group for Corporate Social Responsibility in Cuba (GIRSCC) and the National Endowment for Democracy (NED) to engage in political subversion that constitutes an affront to the purposes and principles of the Charter of the United Nations and international law, particularly the principles of sovereignty, self-determination and non-interference in internal affairs. The Government emphasizes that ASIC has maintained its allegations for years for the sole purpose of discrediting the Government, with the aim of keeping the case before the Committee open artificially.
- 225.** With regard to recommendation (b) (carrying out investigations relating to specific trade union members or leaders), the Government indicates in its communication dated 23 October 2024 that: (i) the Government has coordinated the investigations or responses from different entities, using the necessary measures and established procedures, in order to verify each of the allegations against the individuals mentioned in the recommendation; and (ii) action taken included: searches in Ministry of the Interior automated records used for monitoring detained persons and other persons prosecuted in connection with alleged criminal acts; use of data intelligence procedures to establish the identity of persons; consultation of databases of bodies such as the Ministry of Justice; locating persons in places of residence; and interviews. While considering that sufficient information has been provided to refute the reported allegations of attacks, harassment, disrespect for freedoms and restrictions against these persons, the Government provides information with regard to the persons mentioned in recommendation (b):
- (1) **Oswaldo Arcis Hernández:** He is unemployed. He was sanctioned with two years' detention in 2015 for the crime of antisocial behaviour. He has been given a warning for illegal economic activity and breach of the peace. His antisocial behaviour continues and he lacks support in his community. He was the subject of a criminal prosecution for causing public disorder on 11 July 2021, but this was subsequently overturned.
 - (2) **Bárbaro Tejeda Sánchez:** He displays appalling social behaviour and has been prosecuted on 12 occasions for the offences of theft, leaving the national territory illegally, public disorder, making threats, speculation, hoarding and handling stolen goods. He left the national territory for Nicaragua in 2019 and has not returned.
 - (3) **Felipe Carrera Hernández:** No police action has been taken against him. Since 2017, he has made five trips abroad, three to Panama and two to Colombia.
 - (4) **Pavel Herrera Hernández:** He has been living abroad since 2016 and has not returned to the country. He was previously prosecuted for the offence of theft and given a warning for a breach of the peace.

- (5) **Daniel Perea García:** In August 2019 he was charged with the offence of handling stolen goods. In January 2023 he was summoned by the PNR for ongoing antisocial behaviour. In 2024, no police action has been taken against him. He does not currently have links with the organization that calls itself ASIC, but he spends his time spreading fake news.
 - (6) **Yisan Zamora Ricardo:** He was arrested in the province of Holguín on 25 July 2021, for the offence of public disorder. He was released on 28 July 2021, with no other charges against him. He was once again prosecuted for public disorder on 4 October 2022.
 - (7) **Willian Cruz Delgado:** He has an extensive criminal record, which has been previously reported to the Committee. Between 2004 and 2018 he was sanctioned for the offences of assault, making threats, contempt of court and public disorder. On 24 August 2019, he was fined for contravening the provisions of Decree Law No. 141/88. Between 2015 and 2021, he was reported on four occasions for injury, contempt and public disorder; he was also taken on nine occasions to a National Revolutionary Police station for engaging in the illicit sale of goods and foreign currency. It was ascertained that this person has never been prosecuted by the police for exercising his labour or trade union rights.
 - (8) **Roque Iván Martínez Beldarraín:** He has an extensive criminal record, with previous convictions for less serious injury, assault, violent robbery, forceful robbery and home invasion. He has received two violations for speculation and has been given an official warning by the PNR on two occasions. He does not currently have links to ASIC. He was dismissed from the Port of Cienfuegos due to repeated indiscipline associated with unjustified absences, lateness, mistreatment and disrespect towards co-workers and superiors.
 - (9) **Jefferson Ismael Polo Mezerene** and his mother **Anairis Dania Mezerene:** They have no links to ASIC. They were arrested and taken to the national police unit in Holguín on 11 July 2021 for a breach of public order during disturbances on that day. They were held there for 72 hours and subsequently released with an administrative fine. Since that date no other police action has been taken against them.
 - (10) **Ulises Rafael Hernández López:** He is a person who displays antisocial behaviour in the area around his residence. He was prosecuted for public disorder in May 2026 and December 2020.
 - (11) **Leonardo Hernández Camejo:** The Government has not provided information about him in relation to recommendation (b).
226. Regarding recommendation (c) (the court ruling handed down against Humberto Bello Laffita), the Government simply recalls that trials are public, oral and adversarial and in accordance with criminal procedural law, and final rulings are communicated to the public prosecutor and the accused person or his or her counsel, who are also provided with a copy.
 227. With regard to recommendation (d) (ensuring that ASIC general secretary Iván Hernández Carillo is able to freely carry out his trade union activities without interference), the Government reiterates that Mr Hernández Carrillo is not a trade union leader and that he has previous criminal convictions. He was sentenced to 25 years in prison in 2003, granted parole in February 2011 and continues to have limited rights, due to his legal situation. In addition, his record contains multiple breach of the peace violations and official warnings.
 228. With regard to recommendation (e) (ensuring that the rights of ASIC officials and members to organize and freely carry out their trade union activities are not restricted, including when these activities are conducted outside the country or when they involve participation in

international online forums), the Government once again states that: (i) the United States of America blockade limits the capacity of telecommunications companies to change the technology to enable improvements to be made to internet connection conditions; (ii) Cuban representatives continue to face numerous challenges to participation in virtual meetings and other events convened by United Nations system bodies, since Cuba has restricted access to several of the digital platforms used for those purposes; and (iii) the argument expressed in ASIC's allegations blaming the Government of Cuba for their inability to participate in a virtual forum using a platform prohibited in Cuba, without placing blame on the Government of the United States for these limitations, demonstrates the true objective and interests that the members of ASIC are defending.

- 229.** With regard to recommendation (f) (ensuring that ASIC officials have the freedom of movement in the national territory to carry out their trade union activities), the Government again states that: (i) legislation does not limit freedom of movement in connection with the exercise of labour and/or trade union rights; and (ii) freedom of movement, including within the country, is legally restricted in the case of Cuban citizens who are defendants in criminal proceedings or respondents in civil proceedings; those who are completing a criminal sentence, whether custodial or non-custodial; and those who have been granted parole, a suspended sentence or conditional release by the court.
- 230.** With regard to recommendation (g) (the outcome of investigations into alleged dismissals), the Government refers to its previous communications, according to which: (i) legally established disciplinary measures for labour discipline violations outlined in labour legislation were imposed on Mr Kelvin Vega Rizo and Mr Pavel Herrera Hernández in 2017; and (ii) with regard to the situation of Mr Ismael Valentín Castro and Ms Dania Noriega, this is not politically motivated in connection with their apparent "trade union activism" but rather related to violation of standards governing prices and tariffs.
- 231.** In its subsequent communications, the Government rejects ASIC's new allegations, reaffirming that the complainants are not trade unionists and are not acting independently, and that they are alleging violations of workers' rights by the Government without providing any evidence. With regard to Mr Iván Hernández Carrillo, the Government reiterates that he is a Cuban citizen with no employment relationship, who has made a steady stream of false accusations to the ILO in order to denigrate the country's record on labour and trade union rights.
- 232.** The Government notes in particular that: (i) the allegations regarding the supposed 6 November 2023 summons issued to Mr Leonardo Hernández Camejo are false; (ii) it is not true that Mr Daniel Perea García was questioned for suspected trade union activity or that he was physically attacked or threatened with imprisonment; (iii) Mr Alexis Rodríguez Martínez was arrested on 8 December 2023 for committing the crime of propaganda against the constitutional order, and the investigations carried out have not found anything to suggest that the actions taken by the authorities violated the law; (iv) it is not true that Mr Alejandro Sánchez Saldívar was summoned to the police unit in the village of Cabañas to tell him that he could not travel to Havana and that he should stay inside his house on International Human Rights Day; (v) it is also not true that Mr Rodolfo Aparicio Alemán was arrested on 15 December 2023; (vi) neither Ms Yunia Figueredo Cruz, nor Mr Iván Hernández Carrillo have been subject to any police measures; (vii) Mr Leonardo Hernández Camejo, Mr Ulises González Moreno, Mr Emilio Alberto Gottardi Gottardi, Mr Luis Orlando León Randich, Mr Dayán Ortíz, Ms Yaquelín Dalis Caballero and Ms Nora Noa are not recorded in the Ministry of the Interior's automated systems for the alleged police citation of 27 January 2024 and it seems that they were not dealt with by the Office of the Public Prosecutor. In the cases of Ms Nora Noa and Mr Dayan Ortíz, their identities could not even be verified, insofar as there are several people

with those names and surnames in the Unique Identification Number System; (viii) with regard to Mr Rodolfo Aparicio Alemán, on 12 January 2024 he was taken to the police unit in Cruces, Cienfuegos province, for not carrying all the documentation relating to the movement of the goods in his truck. At the police station, he behaved aggressively towards the police agent who had brought him in and maintained a provocative attitude, which led to a complaint for the offence of contempt, laid down in article 185 of the Criminal Code. As established in the law, he was brought before the Public Prosecutor, who placed him in provisional preventive detention on 15 January 2024, and he was moved to the corresponding penitentiary centre on 18 January. On 30 January the preventive measure was changed to cash bail; and ix) with regard to Mr Iván Hernández Carrillo, the Government reports that on 29 March 2024 he was found to be attempting to travel to the country's capital to carry out actions against the Government alongside other people, and so he was identified and taken to the PNR unit in Matanzas. In the police unit he was officially notified of the violation of his legal status (parole granted in 2011). No other actions were taken against him, as falsely alleged.

D. The Committee's conclusions

- 233.** *The Committee recalls that this complaint concerns several allegations of acts of aggression, harassment, persecution, arrests, assault and restrictions on the free movement of trade union officials and members while carrying out their functions by State security forces. The complainant also denounces its non-recognition by the Government.*
- 234.** *As regards recommendation (a) (recognition and free operation of ASIC), the Committee notes that the Government once again states, in its communication dated 23 October 2024, that: (i) the members of the organization that calls itself ASIC are neither workers nor employers; they do not belong to any labour collective and have not been elected or appointed by the members as trade union representatives; they do not have the objective of promoting or defending workers' interests, nor do they have the genuine support of the membership or any labour collective; (ii) the complainants operate under the agendas of the International Group for Corporate Social Responsibility in Cuba (GIRSCC) and the National Endowment for Democracy (NED) to engage in political subversion that constitutes an affront to the purposes and principles of the Charter of the United Nations and international law, particularly the principles of sovereignty, self-determination and non-interference in internal affairs; and (iii) ASIC has maintained its allegations for years for the sole purpose of discrediting the Government, with the aim of keeping the case before the Committee open artificially.*
- 235.** *The Committee recalls, once again, that for several decades, it has been examining allegations of non-recognition and interference by the Government in the free operation of trade union organizations not affiliated to the Confederation of Workers of Cuba [see Cases Nos 1198, 1628, 1805, 1961 and 2258 of the Committee on Freedom of Association]. The Committee is bound to recall that the right to official recognition through legal registration is an essential facet of the right to organize since that is the first step that workers' or employers' organizations must take in order to be able to function efficiently, and represent their members adequately; and that a long registration procedure constitutes a serious obstacle to the establishment of organizations and amounts to a denial of the right of workers to establish organizations without previous authorization. In addition, it recalls once again that freedom of association implies the right of workers and employers to elect their representatives in full freedom and to organize their administration and activities without any interference by the public authorities [see **Compilation of decisions of the Committee on Freedom of Association**, sixth edition, 2018, paras 449, 463 and 666]. Recalling that, according to the information provided by the complainant, some trade union members and officials mentioned in the complaint were self-employed workers, and that others had been dismissed for anti-union*

reasons, the Committee once again recalls that the criterion for determining the persons covered by the right to organize is not based on the existence of an employment relationship. Workers who do not have employment contracts should have the right to form the organizations of their choosing if they so wish [see **Compilation**, para. 330]. The Committee reiterates that in its initial examination of this case, it had noted that ASIC, in its founding declaration of principles, advocates trade union autonomy in the framework of the rule of law, aims to promote full compliance with ILO international labour standards and proclaims that it will not compromise or associate itself with party-political activities. In its union constitution, ASIC states that its key objectives include grouping together independent trade unions and reporting violations of international labour standards. Moreover, ASIC members' duties as set out in the union constitution include defending workers' claims and benefits. It is in this context that the Committee observes that the elements of ASIC's declaration of principles and union constitution fall within the scope of action and definition of a workers' organization. With deep regret that there has been no progress since its last examination of this case, the Committee therefore once again refers to its previous conclusions and once more strongly urges the Government to ensure that ASIC is given recognition, and that it can freely operate and carry out its trade union activities.

236. With regard to recommendation (b) (carrying out investigations relating to specific trade union members or leaders), the Committee takes note that the Government, in its communication dated 23 October 2024, provides information about the members identified in the said recommendation, indicating or reiterating that the persons in question: (i) do not have or have not had trade union links (Osvaldo Arcis Hernández, Daniel Perea García, Roque Iván Martínez Baldarraín, Jefferson Ismael Polo Mezerene, Anairis Dania Mezerene); (ii) continue to engage in inappropriate social behaviour and/or have committed offences, including public order offences (Osvaldo Arcis Hernández, Bárbaro Tejeda Sánchez, Pavel Herrera Hernández, Daniel Perea García, Yisan Zamora Ricardo, Willian Cruz Delgado, Roque Iván Martínez Baldarraín, Jefferson Ismael Polo Mezerene, Anairis Dania Mezerene, Ulises Rafael Hernández López); (iii) have never been subject to police action (Felipe Carrera Hernández); and (iv) reside overseas (Bárbaro Tejeda Sánchez, Pavel Herrera Hernández).
237. While taking due note of the Government's reply, the Committee cannot fail to observe the numerous additional allegations made by the complainant regarding the commission of new acts of anti-union discrimination – in particular arbitrary arrests, threats of deprivation of liberty and various acts of harassment against ASIC members and officials – which, according to the complainant's allegations, demonstrate the systematic violence of the State against ASIC in order to silence its struggle to defend the rights of workers.
238. The Committee takes note in that regard the complainant's allegation that: (i) on 6 November 2023, trade unionist Leonardo Hernández Camejo was summoned to present himself at the Centro Habana police unit, where he was interrogated by an official from the DSE and warned to give up his activism. He was interrogated again on 27 January 2024, alongside other independent trade unionists (Ulises González Moreno, Yaquelín Dalis Caballero, Emilio Alberto Gottardi Gottardi, Luis Orlando León Randich, Nora Noa, Dayán Ortíz); (ii) on 30 November, Daniel Perea García, ASIC provincial secretary in Santiago de Cuba, was subjected to an interrogation with physical violence by two DSE officials; (iii) on 7 December, independent trade unionist Alejandro Sánchez Zaldívar was summoned to the police unit in the village of Cabañas, Artemisa province, to tell him that he could not travel to Havana on that date and that he should stay inside his house; (iv) on 8 December, independent trade unionist Alexis Rodríguez Martínez was arrested in the city of Holguín and taken to the police station in Pedernales until the 21st; (v) on 9 and 10 December, the homes of journalist and independent trade unionist Yunia Figueredo Cruz and of general secretary Iván Hernández Carillo were besieged by agents of the political police; and (vi) independent trade unionist Rodolfo Aparicio Alemán was

arrested on 15 December and again on 12 January 2024 by agents of the PNR. He was released on 31 January and given a fine of 5,000 Cuban pesos.

- 239.** *The Committee takes note that the complainant also alleges that: (i) on 29 March 2024, ASIC general secretary Iván Hernández Carrillo was arrested and taken to the police unit in La Playa, where he was interrogated and issued with a warning for the alleged offences of harming the constitutional order and of mercenary activity, which carry maximum sentences of up to 15 years imprisonment for the former, and death for the latter; and (ii) that he was warned that, if he continued his trade union activities, next time he would be imprisoned on the aforementioned charges.*
- 240.** *The Committee takes note that the complainant also alleges that there were other instances of acts of persecution towards ASIC activists, to besiege, harass and prevent them from leaving their homes, such as during the First of May celebrations (affecting Liván Monteagudo Rivero, provincial secretary of Las Tunas, and Bárbaro de la Nuez Ramírez, general secretary in the province of Cienfuegos), and that these intensified with the approach of the third anniversary of the peaceful protests of 11 July 2021 (affecting Consuelo Rodríguez Hernández, secretary of women workers of ASIC; Lázaro Roberto Aguiar Mendoza, activist in the municipality of Cruces, province of Cienfuegos; Bárbaro de la Nuez Ramírez; union journalist Yunia Figueredo Cruz; Emilio Alberto Gottardi Gottardi, general secretary in the province of La Habana, Iván Hernández Carrillo, as well as independent trade unionists Ulises González Moreno and Yaquelín Dalis Caballero). The committee takes note that the complainant alleges that: (i) on two occasions, on 2 May and 23 October 2024, ASIC trade unionist Yoanys Olivera Vicente was detained at the police unit in Cruces, where she was interrogated and threatened with imprisonment if she did not leave the organization, as well as running the risk of losing her employment as a veterinarian in a State institution, and she was asked to work as an informant for them within ASIC; (ii) independent trade unionist Lázaro Aguiar Menoza was arbitrarily detained on 22 October 2024 in the province of Cienfuegos, for theft of equipment, and released apparently without charge on the same day; (iii) provincial secretary of Mayabeque, Ibán Guerra Hernández, was interrogated on 4 January 2025 at the police unit in the municipality of Santa Cruz del Norte, Mayabeque province, by a DSE lieutenant colonel who threatened the trade unionist with imprisonment for sharing information through social media, warning that the secret political police was spying on and monitoring ASIC's information and communication spaces; and (iv) independent trade unionist Emilio Gottardi Gottardi was also arrested on 10 January by two men in civilian clothes, identified as DSE agents, at the Centro Habana police unit, where he was subjected to constant questions and threats relating to his trade union work, warning that he risked serious consequences if he did not give up his commitment to ASIC. The Committee takes note that the complainant highlights that the persons concerned did not have the assistance of a lawyer, they were threatened without formal request or any grounds that the proceedings had any legal standing, which also demonstrated that the regime was constantly monitoring ASIC's trade union activity.*
- 241.** *With regard to the persons specifically mentioned in the new allegations from ASIC, the Committee notes that the Government states that: (i) the allegations regarding the supposed 6 November 2023 summons issued to Mr Leonardo Hernández Camejo are false; (ii) it is not true that Mr Daniel Perea García was questioned for suspected trade union activity or that he was physically attacked or threatened with imprisonment; (iii) Mr Alexis Rodríguez Martínez was arrested on 8 December 2023 for committing the crime of propaganda against the constitutional order, and the investigations carried out have not found anything to suggest that the actions taken by the authorities violated the law; (iv) it is not true that Mr Alejandro Sánchez Saldívar was summoned to the police unit in the village of Cabañas to tell him that he could not travel to Havana and that he should stay inside his house on International Human Rights Day; (v) it is also not true that Mr Rodolfo Aparicio Alemán was arrested on 15 December 2023; (vi) neither Ms Yunia Figueredo Cruz, nor Mr Iván Hernández*

Carrillo have been subject to any police measures; (vii) Mr Leonardo Hernández Camejo, Mr Ulises González Moreno, Mr Emilio Alberto Gottardi Gottardi, Mr Luis Orlando León Randich, Mr Dayán Ortíz, Ms Yaquelín Dalis Caballero and Ms Nora Noa are not recorded in the Ministry of the Interior's automated systems for the alleged police citation of 27 January 2024 and it seems that they were not dealt with by the Office of the Public Prosecutor. In the cases of Ms Nora Noa and Mr Dayán Ortíz, their identities could not even be verified, insofar as there are several people with those names and surnames in the Unique Identification Number System; (viii) with regard to Mr Rodolfo Aparicio Alemán, on 12 January 2024 he was taken to the police unit in Cruces, Cienfuegos province, for not carrying all the documentation relating to the movement of the goods in his truck. At the police station, he behaved aggressively towards the police agent who had brought him in and maintained a provocative attitude, which led to complaint No. 433, dated that same day, for the offence of contempt, laid down in article 185 of the Criminal Code. As established in the law, he was brought before the Public Prosecutor, who placed him in provisional preventive detention on 15 January 2024, and he was moved to the corresponding penitentiary centre on 18 January. On 30 January the preventive measure was changed to cash bail; and (ix) with regard to Mr Iván Hernández Carrillo, the Government reports that on 29 March 2024 he was found to be attempting to travel to the country's capital to carry out actions against the Government alongside other people, and so he was identified and taken to the PNR unit in Matanzas. In the police unit he was officially notified by PNR representatives that he had violated his legal status (parole granted in 2011). No other actions were taken against him, as falsely alleged.

242. While taking note that the Government did not provide information regarding allegations relating to events taking place after April 2024 (see above, para. 27), the Committee cannot fail to once again note the diverging versions of events of the Government and the complainant and the fact that the Government continues to deny the alleged acts.
243. While the Government continues to list the offences or details of previous legal proceedings against various persons (including illicit economic activities, handling stolen goods, causing damage, public disorder, antisocial behaviour) mentioned both in recommendation (b) of the last report on the present case and in its reply to certain new allegations from ASIC, the Committee once again regrets to note that it has not provided information on the commission of such offences, nor has it annexed documents on the relevant investigations or copies of rulings, as the Committee noted in previous conclusions concerning the present case. The Committee is bound once again to recall that in cases where the complainants alleged that trade union leaders or workers had been arrested for trade union activities, and the governments' replies amounted to general denials of the allegation or were simply to the effect that the arrests were made for subversive activities, for reasons of internal security or for common law crimes, the Committee has always followed the rule that the governments concerned should be requested to submit further and as precise information as possible concerning the arrests, particularly in connection with the legal or judicial proceedings instituted as a result thereof and the result of such proceedings, in order to be able to make a proper examination of the allegations. In addition, in many cases, the Committee has asked the governments concerned to communicate the texts of any judgements that have been delivered together with the grounds adduced therefor [see **Compilation**, paras 178 and 179]. In these circumstances, in order to be able to examine the allegations in full knowledge of the facts, the Committee again requests the Government to provide the outcome of the investigations carried out and, if applicable, the court rulings concerning the union members or officials in respect of whom the Government states that they are engaged in inappropriate social behaviour and/or have committed offences, including public order offences, in particular: Osvaldo Arcis Hernández, Bárbaro Tejeda Sánchez, Pavel Herrera Hernández, Daniel Perea García, Yisan Zamora Ricardo, Willian Cruz Delgado, Roque Iván Martínez Baldarraín, Jefferson Ismael Polo Mezerene, Anairis

Dania Mezerene, Ulises Rafael Hernández López, as well as Leonardo Hernández Camejo and Rodolfo Aparicio Alemán.

- 244.** *The Committee also requests the Government to provide information regarding the new allegations of repeated acts of persecution against the following ASIC members and leaders: Liván Monteagudo Rivero, Bárbaro de la Nuez Ramírez, Consuelo Rodríguez Hernández, Lázaro Roberto Aguiar Mendoza, Yunia Figueredo Cruz, Emilio Alberto Gottardi Gottardi, Iván Hernández Carrillo, Ulises González Moreno, Yaquelín Dalis Caballero, Yoanys Olivera Vicente and Ibán Guerra Hernández. The Committee also requests the Government to provide its observations relating to the allegations contained in the communications from ASIC dated 16 April and 6 May 2025.*
- 245.** *With regard to recommendation (c) (the court ruling handed down against Humberto Bello Laffita), the Committee deeply regrets, once again, that the Government still refuses to send a copy of the court ruling handed down against Mr Humberto Bello Laffita sentencing him to a one-year prison term. The Committee urges the Government to do so without further delay and to ensure that no workers are arrested for their trade union activities.*
- 246.** *With regard to recommendation (d) (ensuring that ASIC general secretary Iván Hernández Carrillo is able to freely carry out his trade union activities without interference), the Committee takes note that the Government simply recalls that Iván Hernández Carrillo is currently serving the remainder of his sentence in freedom, meaning that under existing criminal legislation he must fulfil certain obligations. Noting both this information reiterated by the Government and the complainant's repeated allegations about the many restrictions and threats to which Mr Iván Hernández Carrillo is allegedly subject, the Committee urges the Government to ensure that Mr Hernández Carrillo is able to freely carry out his trade union activities without interference.*
- 247.** *With regard to recommendation (e) (ensuring that the rights of ASIC officials and members to organize and freely carry out their trade union activities are not restricted, including when these activities are conducted outside the country or when they involve participation in international online forums), the Committee takes note that the Government stresses that these are false allegations and unfounded accusations, and that the restrictions on access to the internet and information technology are due to the blockade imposed on the country. In light of the new allegations regarding surveillance measures that were accompanied by a voluntary interruption of the internet in the case of the independent journalist and trade unionist Yunia Figueredo Cruz in December 2023, the Committee once again urges the Government to ensure that the right of ASIC officials and members to organize and freely carry out their trade union activities are not restricted, including when these activities are conducted outside the country, or when they involve participation in international online forums.*
- 248.** *With regard to recommendation (f) (ensuring that ASIC officials have the freedom of movement in the national territory to carry out their trade union activities), the Committee takes note that the Government reiterates that freedom of movement, including within the country, is legally restricted only in the case of citizens who are defendants in criminal proceedings or respondents in civil proceedings; those who are completing a criminal sentence, whether custodial or non-custodial; and those who have been granted parole, a suspended sentence or conditional release by the court. While once again noting that the Government's and complainant's versions of events differ, the Committee observes that the complainant alleges new restrictions on freedom of movement, such as surveillance of the homes of trade unionists on certain occasions, for example the First of May celebrations or the commemoration of the third anniversary of the mass protests that shook the country on 11 July 2021. Recalling in this regard that the right to peaceful demonstration to defend the occupational interests of workers is a fundamental aspect of trade union rights, the Committee once again firmly urges the Government to fully ensure that ASIC officials have the freedom of*

movement in the national territory to carry out their trade union activities, including participation in demonstrations to defend the interests of their members, without Government interference.

- 249.** *With regard to recommendation (g) (alleged anti-union dismissals), the Committee regrets that the Government simply refers to its previous statements, according to which the dismissals of Mr Ismael Valentín Castro and Ms Dania Noriega were related to violations of labour discipline and were not politically motivated in connection with their apparent “trade union activism”, without providing the requested copy of the outcome of the investigations carried out in this regard. The Committee deeply regrets that the Government has not provided the outcome of the corresponding investigations into the dismissals of Mr Kelvin Vega Rizo and Mr Pavel Herrera Hernández either. In these circumstances, the Committee again requests the Government to provide a copy of the outcome of the investigations into the dismissals of Mr Ismael Valentín Castro and Ms Dania Noriega, as well as that of Mr Kelvin Vega Rizo and Mr Pavel Herrera.*
- 250.** *Lastly, nine years after receiving the first communication concerning the present case, the Committee expresses its deep concern that the situation has reached such a point that the complainant continues to submit new allegations and that the Government continues to systematically reject them without providing the additional information necessary (such as the outcome of the investigations carried out and, if applicable, the corresponding court rulings) for an informed examination by the Committee. In these circumstances, given the lack of information in some instances and the lack of progress in others, the Committee urges the Government to accept a direct contacts mission to gather further information, facilitate dialogue between the parties and encourage the application of its recommendations.*

The Committee’s recommendations

- 251.** **In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:**
- (a)** **The Committee strongly urges the Government to ensure that the Independent Trade Union Association of Cuba (ASIC) is given recognition, and that it can freely operate and carry out its trade union activities.**
 - (b)** **The Committee again requests the Government to provide the outcome of the investigations carried out and, if applicable, the court rulings concerning the union members or officials in respect of whom the Government states that they are engaged in inappropriate social behaviour and/or have committed offences, including public order offences, in particular: Osvaldo Arcis Hernández, Bárbaro Tejeda Sánchez, Pavel Herrera Hernández, Daniel Perea García, Yisan Zamora Ricardo, Willian Cruz Delgado, Roque Iván Martínez Baldarraín, Jefferson Ismael Polo Mezerene, Anairis Dania Mezerene, Ulises Rafael Hernández López, as well as Leonardo Hernández Camejo and Rodolfo Aparicio Alemán.**
 - (c)** **The Committee also requests the Government to provide information regarding the new allegations of repeated acts of persecution against the following ASIC members and leaders: Liván Monteagudo Rivero, Bárbaro de la Nuez Ramírez, Consuelo Rodríguez Hernández, Lázaro Roberto Aguiar Mendoza, Yunia Figueredo Cruz, Emilio Alberto Gottardi Gottardi, Iván Hernández Carrillo, Ulises Gonzáles Moreno, Yaquelín Dalis Caballero, Yoanys Olivera Vicente and Ibán Guerra Hernández. The Committee also requests the Government to provide its observations relating to the allegations contained in the communications from ASIC dated 16 April and 6 May 2025.**

- (d) The Committee urges the Government to send the court ruling handed down against Mr Humberto Bello Laffita without further delay. The Committee urges the Government to ensure that no workers are arrested for their trade union activities.
- (e) The Committee urges the Government to ensure that Mr Hernández Carrillo is able to freely carry out his trade union activities without interference from the authorities.
- (f) The Committee once again urges the Government to ensure that the right of ASIC officials and members to organize and freely carry out their trade union activities are not restricted, including when these activities are conducted outside the country, or when they involve participation in international online forums.
- (g) The Committee once again firmly urges the Government to fully ensure that ASIC officials have the freedom of movement in the national territory to carry out their trade union activities, including participation in demonstrations to defend the interests of their members, without Government interference.
- (h) The Committee again requests the Government to provide a copy of the outcome of the investigations into the dismissals of Mr Ismael Valentín Castro and Ms Dania Noriega, as well as that of Mr Kelvin Vega Rizo and Mr Pavel Herrera.
- (i) The Committee urges the Government to accept a direct contacts mission to gather further information, facilitate dialogue between the parties and encourage the application of its recommendations.

Case No. 3349

Definitive report

Complaint against the Government of El Salvador presented by

- the Trade Union of Workers of the Salvadoran Institute for Women's Development (USTTISDEMU) and
- the National Union for the Defence of the Working Class (UNT)

Allegations: The complainant organizations allege acts of anti-union discrimination, including transfers, and excessive restrictions on the granting of trade union leave by a public institution for the promotion of gender equality

- 252.** The complaint is contained in three communications dated 31 July and 13 September of 2018 and 7 February 2020 from the Trade Union of Workers of the Salvadoran Institute for Women's Development (USTTISDEMU) and the National Union for the Defence of the Working Class (UNT).
- 253.** The Government of El Salvador sent its observations on the allegations in a communication dated 23 September 2019.

- 254.** El Salvador has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Workers' Representatives Convention, 1971 (No. 135), the Labour Relations (Public Service) Convention, 1978 (No. 151), and the Collective Bargaining Convention, 1981 (No. 154).

A. The complainants' allegations

- 255.** In their communications of 31 July and 13 September 2018, the complainants assert that two leaders of the USTTISDEMU, which was established in November 2013 and acquired legal personality on 22 January 2014, were subjected to acts of anti-union discrimination, including transfers, by the Salvadoran Institute for Women's Development (ISDEMU). They further allege that the ISDEMU imposed excessive restrictions on the granting of trade union leave to USTTISDEMU representatives.
- 256.** According to the complainants, on 23 May 2015, Mr José Leopoldo de la O. Montoya, Finance Secretary of the USTTISDEMU, was relieved of his duties as institutional accountant, a post that he had occupied since 1996, and assigned to an archive technician post, despite the fact that he enjoyed trade union immunity. The complainants further maintain that the ISDEMU initiated proceedings for the removal from office of Mr de la O. Montoya before the First Civil and Commercial Court and that a judicial appeal was filed in this regard.
- 257.** In addition, the complainants affirm that Ms Edith Santos Hernández, elected International and National Relations Secretary of the USTTISDEMU in November 2017, was transferred from a social worker post to serve in an administrative role in December 2017. They indicate that complaints were lodged with the Office of the Attorney General of the Republic and the Civil Service Tribunal in relation to this decision.
- 258.** With regard to the granting of union leave, the complainants maintain that the executive board of the ISDEMU uses the Instructions on the granting of leave for the activities of employees' unions of the Salvadoran Institute for Women's Development (hereinafter, "the Instructions"), which it adopted without consulting the USTTISDEMU, to deny requests made by the latter and to restrict the defence of the rights and interests of its members.
- 259.** The complainants allege, in particular, that deductions and threats of deductions from the wages of USTTISDEMU representatives were made on grounds of unjustified absences from work, despite the fact that the representatives concerned had documented the reasons for those absences through the institutional leave form. They further assert that the ISDEMU refused to allow the USTTISDEMU to organize a trade union training for its members on working days with pay, urging it instead to ask its members to request compensatory leave or leave without pay, thereby affecting the level of participation in the training.
- 260.** In their communication of 7 February 2020, the complainants indicate that, following the filing of an appeal with the Ombudsman for Human Rights (PDDH), the latter issued a decision of 14 May 2018 in which it recommended that the ISDEMU amend the Instructions through negotiation with the USTTISDEMU. However, they state that, to date, the ISDEMU has not revised the Instructions nor have negotiations been held in this regard. Furthermore, the complainants maintain that the excessive restrictions on the granting of union leave continued, as the ISDEMU refused to grant members of the USTTISDEMU leave to receive training on the Civil Service Act.
- 261.** The complainants further assert that the ISDEMU systematically opposed certain of their requests, and that repeated attempts by USTTISDEMU representatives to engage in dialogue were ignored by the ISDEMU, which also decided unilaterally to suspend its Labour Relations

Commission, the sole interlocutor of the USTTISDEMU in the Institute. They maintain that the USTTISDEMU sent various notes to the ISDEMU to request a meeting on this issue, but that their demands were ignored.

- 262.** The complainants indicate that, on 1 October 2018, the USTTISDEMU initiated action in the form of a peaceful protest in response to the absence of dialogue and the suspension of the aforementioned Commission. They state that, after the Fourth Labour Court of San Salvador classed the action as an illegal strike and ordered the participants to return to work on 5 October 2018, a meeting of the Labour Relations Commission was held on 8 October 2018 and an agreement was reached whereby deductions from participants' wages for the days on which the action took place would not be applied until the ISDEMU and the leadership of the USTTISDEMU had jointly reviewed the matter. However, according to the complainants, the ISDEMU failed to comply with the agreement and unilaterally made deductions from the pay of the 31 members of the USTTISDEMU who participated in the strike, despite the fact that they had requested trade union leave using the institutional form.

B. The Government's reply

- 263.** In its communication of 23 September 2019, the Government submits the observations of the ISDEMU in respect of the allegations. Regarding the alleged anti-union transfer and action for the removal from office of Mr de la O. Montoya, the ISDEMU confirms that the aforementioned transfer took effect from 23 March 2015, and maintains that Mr de la O. Montoya moved from the Institutional Finance Unit to the Institutional Archive Unit as part of a rotation process the objective of which was to strengthen the latter unit and allow Mr de la O. Montoya to acquire new work experience. It further indicates that he retained his position, salary and appointment scheme.
- 264.** The ISDEMU states, however, that Mr de la O. Montoya did not report for duty between 23 March and 2 November 2015, without justification, which constitutes a dereliction of duty in accordance with section 54(g) of the Civil Service Act. The ISDEMU indicates that it therefore petitioned the First Civil and Commercial Court of San Salvador for his removal from office, which the Court authorized in a ruling dated 24 September 2018. It also reports that Mr de la O. Montoya filed an appeal for review with the Civil Chamber of the First Division of the Central Region, which was rejected on 5 February 2019, and a cassation appeal with the Civil Division of the Supreme Court of Justice, which is currently pending.
- 265.** With regard to the alleged anti-union transfer of Ms Edith Santos Hernández, the ISDEMU states that the transfer was not made on the basis of her trade union status. It explains that the Comprehensive Programme for a Life Free from Violence underwent restructuring that involved a change of leadership and a technical readjustment of the post occupied by Ms Santos Hernández, who moved from a victim support role to an administrative role. The ISDEMU indicates that this decision did not involve any change of workplace, salary, position or appointment scheme.
- 266.** In this regard, the ISDEMU further reports that Ms Santos Hernández filed an application for reinstatement in her former post with the Specialized Court of First Instance for a Life Free from Violence and Discrimination for Women, which rejected her appeal in a decision of 27 September 2018, determining that the reassignment of her functions was based on objective grounds related to the proper performance of the activities of the ISDEMU. It indicates that Ms Santos Hernández filed an appeal with the Specialized Chamber for a Life Free from Violence and Discrimination for Women, which upheld the decision issued at first instance in a decision of 4 January 2019.

267. With regard to the alleged excessive restrictions on the granting of trade union leave, the ISDEMU claims that since there were no legislative provisions governing the facilities that should be afforded to trade union representatives, it adopted the Instructions on 12 May 2017 in order to allow the leaders of the two trade union organizations within the Institute, including the USTTISDEMU, to manage their administration and fulfil their role of defending the interests of their members within their working hours. It indicates that the Instructions provide, in particular, for the granting of trade union leave with pay for up to 32 working hours per month for the leaders of each of these organizations.
268. The ISDEMU reports that representatives of the complainant organizations filed an amparo appeal against the ISDEMU in connection with the issuance of the Instructions, and that the Constitutional Chamber of the Supreme Court of Justice, in a decision of 9 April 2018, decided to declare the appeal inadmissible, determining that there were no limitations on the right to freedom of association in relation to the above-mentioned issuance. However, the ISDEMU reports that it entrusted its Labour Relations Commission with the revision of the Instructions through a joint consultation and validation process with the two trade union organizations within it, and that a draft amendment to the Instructions was under review by these organizations since 23 January 2019.
269. Moreover, the ISDEMU indicates that it has always provided spaces in response to requests from the USTTISDEMU for trade union training and capacity-building for its members, and that the general secretary of the USTTISDEMU was granted leave with pay to participate in various training processes within the country and abroad, and to carry out activities on its premises.

C. The Committee's conclusions

270. *The Committee observes that, in this case, the complainants allege that the Salvadoran Institute for Women's Development (ISDEMU) committed acts of anti-union discrimination against two USTTISDEMU leaders, Mr José Leopoldo de la O. Montoya and Ms Edith Santos Hernández; systematically denied several attempts at dialogue from the USTTISDEMU, and excessively restricted the granting of trade union leave through the unilateral adoption and subsequent application of instructions in this regard. The Committee also notes that the Government provides the observations of the ISDEMU, which denies taking the alleged measures for anti-union reasons, reports on the outcomes of certain judicial proceedings in connection with the aforementioned trade union leaders and Instructions and states its willingness to collaborate with the trade union organizations within it to amend the Instructions.*
271. *As regards the alleged acts of anti-union discrimination against Mr de la O. Montoya, Finance Secretary of the USTTISDEMU, the Committee notes that, according to the complainants, the ISDEMU: (i) transferred him from the post of institutional accountant, which he had held since 1996, to an archive technician post on 23 May 2015, despite the fact that he enjoyed trade union immunity; and (ii) filed a petition for his dismissal with the First Civil and Commercial Court. The Committee notes the ISDEMU, for its part, indicates that: (i) Mr de la O. Montoya was transferred as part of the rotation process to allow him to acquire new experience and to strengthen its Institutional Archive Unit; (ii) although the transfer had no impact on his salary, position and appointment scheme, Mr de la O. Montoya did not report for duty between 23 March and 2 November 2015, without justification, which, in legal terms, constituted a dereliction of duty, for which reason it petitioned for his dismissal, which was authorized on 24 September 2018; and (iii) Mr de la O. Montoya filed an appeal for review with the Civil Chamber of the First Division of the Central Region, which was dismissed on 5 February 2019, and a cassation appeal with the Civil Division of the Supreme Court of Justice, which is currently pending.*

272. The Committee notes the conflicting views of the complainants and the ISDEMU as to the reason for the measures taken in relation to Mr de la O. Montoya. The Committee observes, on the basis of publicly available information, that Mr de la O. Montoya contested the aforementioned transfer before the Administrative Disputes Chamber of the Supreme Court of Justice, which rejected the appeal in a decision dated 3 December 2021, determining that the aforementioned transfer did not imply a deterioration to his working conditions or constitute an obstacle to his trade union activities, and was based on the need to provide better service to ISDEMU users. The Committee further notes the decisions of the courts of first and second instance authorizing the dismissal of Mr de la O. Montoya and the corresponding cassation appeal, which is currently pending.
273. With regard to the alleged anti-union transfer of Ms Santos Hernández, International and National Relations Secretary of the USTTISDEMU, the Committee notes the complainants' indication that: (i) following her election as a trade union leader in November 2017, the ISDEMU transferred her from a social worker post to an administrative role in December 2017; and (ii) this decision was contested before the Office of the Attorney General of the Republic and the Civil Service Tribunal. The Committee notes that according to the material provided by the Government, the ISDEMU states that: (i) the transfer took place as a result of a restructuring of its Comprehensive Programme for a Life Free from Violence, which entailed a technical readjustment of the position occupied by Ms Santos Hernández; (ii) the aforementioned transfer did not entail any change to her workplace, salary, position or appointment scheme; (iii) an application for reinstatement in her former post filed by Ms Santos Hernández was rejected on 27 September 2018 by the Specialized Court of First Instance for a Life Free from Violence and Discrimination for Women, which found that the reassignment of her functions was based on objective grounds; and (iv) an appeal filed with the Specialized Chamber for a Life Free from Violence and Discrimination for Women was dismissed in a decision of 4 January 2019.
274. The Committee notes the opposing viewpoints of the complainants and the ISDEMU as to the grounds for the transfer of Ms Santos Hernández. It also notes the decisions handed down at first and second instance in this regard by the aforementioned specialized courts, while observing that it has not received information on the outcomes of the appeals which, according to the complainants, were filed with the Office of the Attorney General of the Republic and the Civil Service Tribunal.
275. The Committee recalls, on the one hand, that protection against acts of anti-union discrimination should cover not only hiring and dismissal, but also any discriminatory measures during employment, in particular transfers, downgrading and other acts that are prejudicial to the worker [see **Compilation of decisions of the Committee on Freedom of Association**, sixth edition, 2018, para. 1087] and, on the other hand, that transfers of employees for reasons unconnected with their trade union affiliation or activities are not covered by Article 1 of Convention No. 98 [see **Compilation**, para. 1103]. The Committee emphasizes that judicial procedures related to union matters must be carried out without undue delays to ensure the effective protection of freedom of association. The Committee trusts that the matters still pending resolution in relation to the dismissal of Mr de la O. Montoya following the non-acceptance of his transfer and to the transfer of Ms Santos Hernández will be resolved as soon as possible.
276. As regards the alleged excessive restrictions on the granting of trade union leave, the Committee notes that the complainants: (i) allege that the ISDEMU denied various types of request from the USTTISDEMU, based on the Instructions on the granting of leave for the activities of employees' unions of the Salvadoran Institute for Women's Development which it adopted without consulting the USTTISDEMU, thereby reducing its capacity to protect its members' interests; (ii) refer in particular to two cases in which the ISDEMU allegedly refused to grant union leave to enable members of the USTTISDEMU to attend trainings with pay, and to a further case in which the ISDEMU allegedly made deductions from the wages of 31 members of the USTTISDEMU for days on which

they participated in a strike, thereby disregarding their requests for union leave; and (iii) indicate that, following the filing of an appeal against the aforementioned Instructions, the PDDH issued a decision dated 14 May 2018 in which it recommended that the ISDEMU amend the Instructions by means of negotiation with the USTTISDEMU, although to date no revision has been carried out nor any negotiation conducted in this regard.

- 277.** The Committee notes that the ISDEMU, for its part, states that: (i) the Instructions, which provide for the granting of paid union leave of up to 32 working hours per month to the leaders of each of the two trade union organizations within the ISDEMU, were adopted on 12 May 2017 in order to enable the leaders of those organizations to manage their administration and perform their duties during working hours; (ii) it has always provided the spaces requested for the provision of trade union training to members of the USTTISDEMU, as well as the paid leave requested for its general secretary to participate in various trainings; (iii) on 9 April 2018, the Constitutional Chamber of the Supreme Court of Justice rejected an amparo appeal filed against the ISDEMU, determining that there were no limitations on the right to freedom of association in relation to the issuance of the Instructions; and (iv) despite this decision, the ISDEMU entrusted its Labour Relations Commission with the revision of the Instructions through a consultation and validation process with the aforementioned trade union organizations, and a draft amendment is under review by those organizations since 23 January 2019.
- 278.** The Committee notes the parties' divergent expectations as to the circumstances under which trade union leave should be granted. It observes that, whereas the complainants refer to three specific cases (two trainings and one strike) in which requests for trade union leave were denied to a large number of USTTISDEMU members for the same period, the ISDEMU does not deny that those requests were rejected and indicates that the Instructions allow the leaders of the USTTISDEMU to receive a maximum of 32 hours of trade union leave per month. In this regard, the Committee recalls that paragraph 10(3) of the Workers' Representatives Recommendation, 1971 (No. 143), states that: "Reasonable limits may be set on the amount of time off which is granted to workers' representatives" [see **Compilation**, para. 1604]. It also recalls that the affording of facilities to representatives of public employees, including the granting of time off, has as its corollary ensuring the "efficient operation of the administration or service concerned", and that this corollary means that there can be checks on requests for time off for absences during hours of work by the competent authorities solely responsible for the "efficient operation" of their services [see **Compilation**, para. 1605]. Noting also the decisions issued by the Supreme Court of Justice and the PDDH in relation to the Instructions, and the revision process initiated by the ISDEMU, the Committee invites the Government to encourage dialogue between the parties on this matter, with a view to finding a negotiated solution to this dispute.
- 279.** With regard to the alleged refusal of the ISDEMU to engage in dialogue with the USTTISDEMU, the Committee notes that, according to the complainants, the ISDEMU: (i) repeatedly opposed the discussion of a series of demands made by the USTTISDEMU, before suspending its Labour Relations Commission, the USTTISDEMU's sole interlocutor within the Institute; (ii) refused to discuss this decision with the USTTISDEMU, leading it to organize a work stoppage from 1 to 5 October 2018 in protest; and (iii) unilaterally made deductions from the wages of the 31 USTTISDEMU members for the days on which they participated in the strike, without respecting the agreement reached that deductions would not be made without having first reviewed the matter with the leadership of the trade union. The Committee notes that the Government has not responded to these allegations. While it recalls that wage deductions for days of strike give rise to no objection from the point of view of freedom of association principles [see **Compilation**, para. 942], the Committee, in the light of the various elements of the case, invites the Government to foster dialogue between the ISDEMU

and the USTTISDEMU, with a view to achieving a harmonious climate for industrial relations between the parties in the future.

The Committee's recommendations

280. In the light of its foregoing conclusions, the Committee invites the Governing Body to approve the following recommendations:

- (a) The Committee trusts that the appeals that remain pending in relation to the dismissal of Mr de la O. Montoya following the non-acceptance of his transfer and in relation to the transfer of Ms Santos Hernández will be resolved as soon as possible.
- (b) The Committee invites the Government to foster dialogue between the Salvadoran Institute for Women's Development (ISDEMU) and the Trade Union of Workers of the Salvadoran Institute for Women's Development (USTTISDEMU) with a view to finding a negotiated solution to their dispute concerning the Instructions on the granting of trade union leave and the Labour Relations Commission, and achieving a harmonious climate for industrial relations in the future.
- (c) The Committee considers that this case does not call for further examination and is closed.

Case No. 2609

Interim report

Complaints against the Government of Guatemala

presented by

- the Indigenous and Rural Workers' Trade Union Movement of Guatemala (MSICG)
- the Autonomous Popular Trade Union Movement of Guatemala
- the Global Unions of Guatemala
- the Trade Union Confederation of Guatemala (CUSG)
- the General Confederation of Workers of Guatemala (CGTG)
- the Trade Union of Workers of Guatemala (UNSITRAGUA) and
- the Movement of Rural Workers of San Marcos (MTC)

supported by

the International Trade Union Confederation (ITUC)

Allegations: The complainant organizations allege numerous murders and acts of violence against trade union members and flaws in the system that result in criminal and labour-related impunity

281. The Committee has already examined the substance of this case on eight occasions, which was presented for the first time in 2007. The Committee last examined the case at its June 2024

meeting and on that occasion it submitted an interim report to the Governing Body [see 407th Report, paras 223 to 249].⁸

- 282.** The Government of Guatemala sent its observations in communications dated 6 March and 8 April 2025.
- 283.** Guatemala has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the Collective Bargaining Convention, 1981 (No. 154).

A. Previous examination of the case

- 284.** At its June 2024 meeting, the Committee made the following recommendations [see 407th Report, para. 249]:

- (a) While welcoming the commitment shown by the State at the highest level to the protection of freedom of association and the actions taken in this respect, the Committee expresses once again its deep concern over the seriousness of this case, given the many instances of murder, attempted murder, assaults and death threats and the climate of impunity.
- (b) The Committee urges the Government, in collaboration with the National Tripartite Committee and its subcommittee on implementation of the road map, to continue to take and intensify the necessary measures to ensure the effective investigation of all acts of violence against trade union leaders and members, in order to determine the motives, responsibilities and punish the perpetrators and instigators of the acts, taking the trade union activities of the victims fully into consideration in the investigations. In particular, the Committee urges the Government:
 - (i) to continue guaranteeing that the Special Investigation Unit has a budget commensurate with the importance of its functions and to ensure that the resources allocated allow it to solve cases more effectively, both older and more recent ones;
 - (ii) to guarantee that the competent authorities devote special attention and the resources required to the investigations into the 35 homicides identified as having particular significance by the National Tripartite Committee; and
 - (iii) to ensure that regular meetings continue to be held between the National Tripartite Committee and the Public Prosecutor's Office, on the one hand, and the Public Prosecutor's Office and the trade union organizations, on the other, with a view to fostering ongoing collaboration and a comprehensive approach to dealing with cases. The Committee requests the Government to keep it informed in this respect.
- (c) Expressing its deep concern about the murder of a trade union leader in 2023, the Committee urges the Government to take, in coordination with all the competent authorities, the necessary steps to increase the effectiveness of measures to prevent anti-union violence and to protect members of the trade union movement who may be at risk. In particular, the Committee requests the Government:
 - (i) to keep it informed of the result of discussions between the Ministry of the Interior and the trade union organizations regarding a possible modification of Ministerial Decision No. 288-2022 concerning the Special Investigation Unit for the analysis of attacks against trade union leaders and members, reminding the Government that it may avail itself of the technical assistance of the Office in this respect; and

⁸ [Link to previous examination.](#)

- (ii) to ensure that a regular dialogue is maintained between the National Tripartite Committee and the Ministry of the Interior on measures taken to prevent and mitigate acts of anti-union violence.
- (d) The Committee draws the special attention of the Governing Body to the serious and urgent nature of this case.

B. The Government's reply

- 285.** In communications dated 6 March and 8 April 2025, the Government recognizes the challenges posed and reaffirms its commitment to protect human rights, promote freedom of association and create a safe environment that allows it to be fully exercised. It indicates that in order to step up the investigation and prosecution of cases of violence against trade union leaders and members, a budget of US\$1.7 million is set to be allocated to the Special Investigation Unit for Crimes against Judicial Officials and Trade Unionists in 2025. The Government states that the Special Investigation Unit in question continues to maintain the integrated case management model, which provides for the initial processing and commencement of an investigation within 24, 48 and 72 hours, in accordance with the guidelines contained in four instructions and two agreements which ensure that investigations must first of all establish whether a crime was committed as a consequence of the victim's trade union activity and any other potential hypotheses formulated from the outset of the investigation.
- 286.** With regard to investigating, solving and punishing the numerous homicides of members of the trade union movement examined in the context of this case, the Government indicates that, according to data provided by the Public Prosecutor's Office, 82 homicide cases had the following procedural outcomes: (i) 27 cases resulted in sentences (21 cases with convictions – in 1 of these cases an additional sentence was handed down in 2024, 5 cases with acquittals and 1 case with a security and correctional measure); (ii) in 6 cases criminal proceedings have expired; and (iii) 49 cases have been shelved in accordance with article 327 of the Code of Criminal Procedure. The Government also indicates that particular efforts are being made in 12 cases to achieve a prompt and timely procedural outcome (7 cases in which arrest warrants were issued, 5 cases at the intermediate stage, one of which relates to a murder committed in 2024, which is pending the establishment by the courts of the date for the opening of public hearings) and that 10 cases are still under investigation. Regarding these ten cases, the Government states that: (i) with respect to one murder that occurred in 2024, the proceedings were confidential as it was classified as a high-impact case; and (ii) investigative procedures were conducted in respect of the murders of Mr Julio César Solís Reyes, from the Union of Education Workers of Guatemala of the department of Jalapa, which occurred on 15 February 2024, and of Mr Ronaldo Geovanny Gómez Godoy, from the National Union of Health Workers of Guatemala of the department of Jutiapa, which occurred on 23 September 2024.
- 287.** With regard to the 35 cases of homicide reported by the National Tripartite Committee on Labour Relations and Freedom of Association (CNTRLLS) as having particular significance at its meeting on 7 February 2020, the Government indicates that: (i) in 7 cases, guilty verdicts have been handed down; (ii) in 3 cases, criminal proceedings have been dropped; (iii) 1 case was dismissed; (iv) in 4 cases, arrest warrants have been issued; (v) 1 case is under investigation by the Special Prosecutor's Office against Impunity; and (vi) 19 cases have been shelved in accordance with section 327 of the Code of Criminal Procedure.
- 288.** The Government also states that, according to the Public Prosecutor's Office, 5 cases involving the killing of members of the trade union movement were recorded in 2024. In this respect, the Government reaffirms its commitment to protecting trade unionists under threat and indicates that in 2024, through the Ministry of the Interior: (i) 81 security measures were

granted to trade union leaders; and (ii) 160 investigations into threats against trade unionists were carried out. The Government also indicates that during the course of 2024 four meetings of the trade union technical committee of the Ministry of the Interior were held and one meeting of the CNTRLIS, where: (i) progress was made on the review of the protocol for protective measures for trade unionists, taking the contributions of the trade union sector into consideration; (ii) the need was raised to reform Ministerial Decision No. 288-2022 concerning the Special Investigation Unit for the analysis of attacks against trade union leaders and members; (iii) work was done on the updating of the emergency telephone line (1543) and on the analysis of patterns of violence and threats against trade unionists; and (iv) the issue of the reform of the National Civil Police Act was discussed.

- 289.** The Government also highlights the numerous actions taken by the Ministry of the Interior to launch a promotion campaign for the emergency telephone number (1543), with programmes to strengthen referral procedures for the hotline planned for 2025, as well as a more sustained awareness campaign. The Government adds that meetings are planned for the CNTRLIS, the Public Prosecutor's Office and the Ministry of the Interior, according to agreements reached at the CNTRLIS on 23 January 2025.

C. The Committee's conclusions

- 290.** *The Committee recalls that the present case relates to numerous allegations of murders and acts of violence against trade union leaders and members, as well as impunity in that regard. The Committee notes that the Government reaffirms its commitment to protect human rights, promote freedom of association and create a safe environment that allows it to be fully exercised, while recognizing the challenges that exist in that regard.*
- 291.** *With regard to the adoption and intensification of measures to ensure the effective investigation of acts of violence against trade union leaders and members (recommendation (b)), the Committee takes due note of the Government's statement that: (i) in order to step up the investigation and prosecution of cases of violence against trade union leaders and members, a budget of US\$1.7 million is set to be allocated to the Special Investigation Unit for Crimes against Judicial Officials and Trade Unionists in 2025; and (ii) the Special Investigation Unit in question continues to maintain the integrated case management model, which provides for the initial processing and commencement of an investigation within 24, 48 and 72 hours, in accordance with the guidelines contained in four instructions and two agreements which ensure that investigations must first of all establish whether a crime was committed as a consequence of the victim's trade union activity and any other potential hypotheses formulated from the outset of the investigation; and (iii) as agreed in January 2025, meetings are planned for the CNTRLIS, the Public Prosecutor's Office and the Ministry of the Interior throughout the year.*
- 292.** *The Committee goes on to note the updates provided by the Government regarding the outcomes of the investigation and punishment of the perpetrators of the homicides of members of the trade union movement examined in the context of this case. The Committee notes that the Government refers to the situation of 102 homicides, indicating that 82 cases had the following procedural outcomes: (i) 27 cases resulted in sentences (21 cases with convictions – in 1 of these cases an additional sentence was handed down in 2024, 5 cases with acquittals and 1 case with a security and correctional measure); (ii) in 6 cases criminal proceedings have expired; and (iii) 49 cases have been shelved in accordance with article 327 of the Code of Criminal Procedure. The Government also indicates that particular efforts are being made in 12 cases to achieve a prompt and timely procedural outcome (7 cases in which arrest warrants were issued, 5 cases at the intermediate stage, one of which relates to a murder committed in 2024, which is pending the establishment by the courts of the date for the opening of public hearings) and that 10 cases are still under investigation.*

293. With regard specifically to the 35 cases of homicide reported by the CNTRLLS as having particular significance at its meeting on 7 February 2020, the Committee notes that the Government indicates that: (i) in 7 cases, guilty verdicts have been handed down; (ii) in 3 cases, criminal proceedings have been dropped; (iii) 1 case was dismissed; (iv) in 4 cases, arrest warrants have been issued; (v) 1 case is under investigation by the Special Prosecutor's Office against Impunity; and (vi) 19 cases have been shelved in accordance with section 327 of the Code of Criminal Procedure.
294. The Committee takes due note of the reaffirmation by the Government of its commitment to protect freedom of association and of the elements provided in relation to the ongoing efforts of the competent institutions to investigate and punish the numerous homicides of members of the trade union movement. The Committee notes in particular the amount envisaged for the 2025 budget of the Special Investigation Unit for Crimes against Judicial Officials and Trade Unionists (US\$1.7 million as compared with US\$1,654 million for 2024 and US\$1,288 million for 2022). At the same time the Committee observes with deep concern that: (i) the number of homicides of members of the trade union movement with convictions that have resulted in guilty verdicts remains unchanged since last year and there are no indications that significant procedural progress has been made during this period, for either the older cases of homicide or for the more recent ones (with the exception of a homicide committed in 2024 which is pending the establishment by the courts of the date for the opening of public hearings); (ii) there is no information to say that and that the arrest warrants mentioned in previous years have been executed; and (iii) the vast majority of the many homicides of members of the trade union movement recorded consequently have still not resulted in convictions and only a small number of the unresolved cases are currently being prosecuted or investigated.
295. While it recognizes the particular difficulties involved in shedding light on older cases of homicide, the Committee recalls once again that it is important that investigations into the murders of trade unionists should yield concrete results in order to determine reliably the facts, the motives and the persons responsible, in order to apply the appropriate punishments and to prevent such incidents recurring in the future [see **Compilation of decisions of the Committee on Freedom of Association**, sixth edition, 2018, para. 96].
296. In the light of the above, the Committee again urges the Government and all the competent authorities to continue taking and intensifying the necessary measures to ensure the effective investigation of all acts of violence against trade union leaders and members, in order to determine the motives, responsibilities and punish the perpetrators and instigators of the acts, taking the trade union activities of the victims fully into consideration in the investigations. In particular, the Committee urges the Government: (i) to continue to ensure that the resources allocated to the Special Investigation Unit allow it to solve cases more effectively, both older and more recent ones; (ii) to guarantee the strengthening of inter-institutional coordination, in particular between the Public Prosecutor's Office, the Ministry of the Interior, the National Police and the judicial authorities, so that murders of members of the trade union movement are the subject of integrated and priority action; and (iii) to ensure that regular meetings continue to be held between the CNTRLLS and the Public Prosecutor's Office, on the one hand, and the Public Prosecutor's Office and the trade union organizations, on the other, with a view to fostering ongoing collaboration and a comprehensive approach to dealing with cases. The Committee requests the Government to keep it informed in this respect.
297. Regarding the protection of members of the trade union movement who may be at risk (recommendation (c)), the Committee notes the Government's statements that, in 2024, through the Ministry of the Interior: (i) 81 security measures were granted to trade union leaders; and (ii) 160 investigations into threats against trade unionists were carried out. The Committee also notes the Government's indication that during the course of 2024, four meetings of the trade union

technical committee of the Ministry of the Interior were held and one meeting of the CNTRLLS, where: (i) progress was made on the review of the protocol for protective measures for trade unionists, taking the contributions of the trade union sector into consideration; (ii) the need was raised to reform Ministerial Decision No. 288-2022 concerning the Special Investigation Unit for the analysis of attacks against trade union leaders and members; (iii) work was done on the updating of the emergency telephone line (1543) and on the analysis of patterns of violence and threats against trade unionists; and (iv) the issue of the reform of the National Civil Police Act was discussed. Lastly, the Committee notes the Government's indication that the Ministry of the Interior envisages for 2025 a series of actions to strengthen the effectiveness of the emergency telephone line.

- 298.** While it takes due note of these elements, the Committee notes with deep concern the Government's indication that, according to the Public Prosecutor's Office, five new cases involving homicides of members of the trade union movement were recorded in 2024, which constitutes a significant increase in the number of victims as compared to previous years. Recalling that the rights of workers' and employers' organizations can only be exercised in a climate that is free from violence, pressure or threats of any kind against the leaders and members of these organizations, and that it is for governments to ensure that this principle is respected [see **Compilation**, para. 84], the Committee again urges the Government to take, in coordination with all the competent authorities, the necessary steps to increase significantly the effectiveness of measures to prevent anti-union violence and to protect members of the trade union movement who may be at risk. In particular, the Committee urges the Government: (i) by means of coordinated efforts of the Ministry of the Interior, the National Civil Police, the Public Prosecutor's Office and the Ministry of Labour and Social Welfare, in consultation with the trade union movement and with the participation of the social partners to identify, taking into consideration the content of the sentences already pronounced, the main risk areas for anti-union violence at the regional and sectoral levels, with a view to taking effective preventive measures; (ii) to ensure, including by adopting a revised protocol for protective measures for trade unionists and strengthening the 1543 emergency line, the functioning of effective mechanisms for immediate response in cases of anti-union violence or threats of anti-union violence; and (iii) to ensure that regular dialogue between the CNTRLLS and the Ministry of the Interior on measures taken to prevent and mitigate acts of anti-union violence is strengthened. The Committee requests the Government to keep it informed in this regard.
- 299.** Recalling that the persistence of anti-union violence and the corresponding situation of impunity form part of the allegations in the complaint submitted against Guatemala in June 2023 under article 26 of the ILO Constitution by a number of delegates to the International Labour Conference, the Committee, while it is encouraged by the commitment shown by the State at the highest level to the protection of freedom of association and the previously described actions taken, requests the Government to give due consideration to the points raised in these conclusions and to take all necessary steps to achieve tangible progress soon.

The Committee's recommendations

- 300.** In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:
- (a) The Committee expresses once again its deep concern over the seriousness of this case, given the many instances of murder, attempted murder, assaults and death threats and the climate of impunity. The Committee is encouraged by the commitment shown by the State at the highest level to the protection of freedom of association and the actions taken in that respect and expects that they will soon lead to tangible progress.

- (b) The Committee once again urges the Government and all the competent authorities to continue taking and intensifying the necessary measures to ensure the effective investigation of all acts of violence against trade union leaders and members, in order to determine the motives, responsibilities and punish the perpetrators and instigators of the acts, taking the trade union activities of the victims fully into consideration in the investigations. In particular, the Committee urges the Government: (i) to continue to ensure that the resources allocated to the Special Investigation Unit allow it to solve cases more effectively, both older and more recent ones; (ii) to guarantee the strengthening of inter-institutional coordination, in particular between the Public Prosecutor's Office, the Ministry of the Interior, the National Police and the judicial authorities, so that murders of members of the trade union movement are the subject of integrated and priority action; and (iii) to ensure that regular meetings continue to be held between the National Tripartite Committee on Labour Relations and Freedom of Association (CNTRLLS) and the Public Prosecutor's Office, on the one hand, and the Public Prosecutor's Office and the trade union organizations, on the other, with a view to fostering ongoing collaboration and a comprehensive approach to dealing with cases. The Committee requests the Government to keep it informed in this respect.
- (c) The Committee again urges the Government to take, in coordination with all the competent authorities, the necessary steps to increase significantly the effectiveness of measures to prevent anti-union violence and to protect members of the trade union movement who may be at risk. In particular, the Committee urges the Government: (i) by means of coordinated efforts of the Ministry of the Interior, the National Civil Police, the Public Prosecutor's Office and the Ministry of Labour and Social Welfare, to identify, in consultation with the trade union movement and with the participation of the social partners, taking into consideration the content of the sentences already pronounced, the main risk areas for anti-union violence at the regional and sectoral levels, with a view to taking effective preventive measures; (ii) to ensure, including by adopting a revised protocol for protective measures for trade unionists and strengthening the 1543 emergency line, the functioning of effective mechanisms for immediate response in cases of anti-union violence or threats of anti-union violence; and (iii) to ensure that regular dialogue between the CNTRLLS and the Ministry of the Interior on measures taken to prevent and mitigate acts of anti-union violence is strengthened. The Committee requests the Government to keep it informed in this regard.
- (d) The Committee draws the special attention of the Governing Body to the seriousness and urgent nature of this case.

Case No. 3459

Interim report

**Complaint against the Government of Honduras
presented by**

- the Authentic Trade Union Federation of Honduras (FASH) and
- the Union of Workers of the Revenue Administration Service (SITRASAR)

**Allegations: The complainant organizations
allege various anti-union acts, including
dismissals, by two government entities**

301. The complaint is contained in three communications dated 8 December 2022, 18 October 2023 and 12 March 2024 from the Authentic Trade Union Federation of Honduras (FASH) and a communication dated 9 January 2025 from the Union of Workers of the Revenue Administration Service (SITRASAR).
302. The Government of Honduras sent its observations on the allegations in a communication dated 12 March 2025.
303. Honduras has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. The complainants' allegations

304. In their communication of 8 December 2022, the complainant organizations allege that the Ministry of Labour and Social Security (SETRASS) failed to comply with several provisions of a "respectful memorandum" that it had concluded with the Union of Workers of the Ministry of Labour and Social Security (SITRASTSS) and also dismissed a member of that union's central executive committee, Mr Luis Fernando Pinel. According to the complainant organizations, SITRASTSS and FASH requested meetings with SETRASS on several occasions between January and August 2022 in order to address the issue and demand an end to the violations, but SETRASS ignored the requests.
305. The complainant organizations state that, in view of this situation, on 11 August 2022 SITRASTSS began to organize informative assemblies at the national level. They claim that SETRASS' management responded by threatening the participants at these assemblies, intimidating them by photographing, filming and recording them, compiling lists to be used for subsequent reprisals, committing acts of violence of all kinds in different regions, and dismissing SITRASTSS members and leaders.
306. Moreover, in their communications of 18 October 2023 and 12 March 2024, the complainant organizations state that, on 10 May 2023, 47 employees of the Revenue Administration Service (SAR) decided to form SITRASAR and that, on 16 June 2023, an application was filed with SETRASS for the recognition and registration of the legal personality of the union. However, they allege that, on 19 June 2023, the five leaders of SITRASAR – Ms Ana Carolina Rivera Zuniga, president; Mr Alex Reinaldo Baquis Corea, treasurer; Mr Denis Mauricio Molina Lupiac, general

secretary; Ms Lesly Melissa Torres Valladares, secretary; and Mr Jairo Osmin Matamoros Romero, vice-president – were dismissed.

- 307.** The complainant organizations claim that, on 20 June 2023, representatives of SITRASAR went in person to the General Labour Directorate of SETRASS and filed an application for special state protection for all members of the trade union that was being formed, as provided for in section 516 of the Labour Code and section 72 of the Labour Inspection Act. They claim that the same day, the SAR launched a campaign of anti-union persecution against SITRASAR, by dismissing 20 of its members, transferring posts and cancelling the access of its members to their usernames and files in the institution.
- 308.** The complainant organizations state that, on 30 June 2023, they filed a case with the Labour Inspectorate in relation to some of the anti-union dismissals, but received no response. They also report that they filed a complaint with the Office of the National Commissioner for Human Rights (CONADEH) and lodged several administrative appeals with SETRASS regarding the aforementioned allegations.
- 309.** The complainant organizations also state that, after SITRASAR had filed its application for registration, SAR formed a parallel union, the Union of Employees of the Revenue Administration Service of Honduras (SIEMPSARH), with new and trusted staff, and that SETRASS advised SIEMPSARH and processed its documentation expeditiously. The complainant organizations state that they filed an appeal against the application for the recognition and registration of the legal personality of SIEMPSARH, but SETRASS declared the appeal inadmissible and then approved the application.
- 310.** According to the complainant organizations, there is a clear complicity between SAR and SETRASS in not processing within the timeframe established by law the application by SITRASAR concerning its legal personality. In their communication of 9 January 2025, the complainant organizations state that the application has not yet been processed, and that they have filed a complaint in this regard with the National Anti-Corruption Council.

B. The Government's reply

- 311.** In its communication of 12 March 2025, the Government submits the observations of SETRASS, which provides information on the processing of the applications submitted by SITRASAR. SETRASS confirms that, on 16 June 2023, SITRASAR submitted to its General Labour Directorate an application for the recognition and registration of legal personality. It reports that, on 7 November 2023, its Legal Services Unit found the application to be inadmissible as it contained substantive flaws.
- 312.** SETRASS reports that, on 27 November 2023, a representative of SITRASAR submitted an ex officio correction, which was forwarded to its Legal Services Unit for the corresponding legal opinion. However, it also notes that several members of SITRASAR subsequently withdrew from the application and that its Legal Services Unit has to issue an opinion on this matter as well, and as a result the application is still pending.
- 313.** SETRASS also states that, on 29 June 2023, SITRASAR filed with its General Labour Directorate an application for special state protection for its members so that they would not be dismissed or subjected to less favourable working conditions, or be victims of acts of anti-union discrimination. It reports that this request was also forwarded to its Legal Services Unit for a legal opinion.

C. The Committee's conclusions

314. The Committee observes that, in the present case, the complainant organizations allege: (i) in relation to SITRASTSS, non-compliance with a “respectful memorandum”, acts of anti-union discrimination, including dismissals, and acts of intimidation by SETRASS; and (ii) in relation to SITRASAR, the intentional delay in the registration of that organization by SETRASS, as well as acts of anti-union discrimination, including the dismissal of 5 leaders and 20 members, and the creation of a parallel trade union by SAR. The Committee also notes that the Government reports on the status of the applications by SITRASAR concerning its registration.
315. With regard to the allegations concerning SITRASTSS, the Committee notes that the complainant organizations claim that: (i) SETRASS violated several provisions of a “respectful memorandum” agreed with SITRASTSS and dismissed Mr Luis Fernando Pinel, a member of the union’s central executive committee; (ii) between January and August 2022, SITRASTSS and FASH tried on several occasions to hold a meeting with SETRASS to address the situation and request an end to the violations, without success; and (iii) after SITRASTSS began organizing informative assemblies at the national level on 11 August 2022, SETRASS’ management responded by threatening participants, intimidating them by taking photographs, videos and recordings, compiling lists to be used for subsequent reprisals, committing acts of violence of all kinds in different regions, and dismissing SITRASTSS members and leaders.
316. While noting the limited details provided by the complainant organizations, in particular with regard to the acts of intimidation and anti-union discrimination that allegedly occurred in response to the above-mentioned informative assemblies, the Committee notes with regret that the Government has not communicated its observations in relation to these allegations. In this regard, the Committee recalls that mutual respect for the commitment undertaken in collective agreements is an important element of the right to bargain collectively and should be upheld in order to establish labour relations on stable and firm ground [see **Compilation of decisions of the Committee on Freedom of Association**, sixth edition, 2018, para. 1336], and that the dismissal of workers on grounds of membership of an organization or trade union activities violates the principles of freedom of association [see **Compilation**, para. 1104]. The Committee also recalls that freedom of assembly and freedom of opinion and expression are a sine qua non for the exercise of freedom of association [see **Compilation**, para. 205], and that the exercise of trade union rights is incompatible with violence or threats of any kind and it is for the authorities to investigate without delay and, if necessary, penalize any act of this kind [see **Compilation**, para. 88]. In the light of the above criteria, the Committee requests the Government to take the necessary steps to ensure that an independent investigation is carried out without delay into the allegations concerning SITRASTSS and, should the allegations be found to be true, that appropriate remedial measures are taken. The Committee requests the Government to keep it informed of any developments in this regard.
317. With regard to the alleged intentional delay in the SITRASAR registration procedure, the Committee notes that the complainant organizations claim that: (i) as of 9 January 2025, the application for the recognition and registration of the legal personality of SITRASAR, which was submitted on 16 June 2023, had still not been processed by SETRASS; (ii) meanwhile, SETRASS advised SIEMPSARH, promptly processed its documentation and granted it legal personality; and (iii) there is a clear complicity between SAR and SETRASS in not processing SITRASAR’s application. The Committee also notes that the Government reports that: (i) on 7 November 2023, the above-mentioned application was declared inadmissible on the grounds that it contained substantive flaws; (ii) on 27 November 2023, SITRASAR submitted an ex officio correction to SETRASS, which SETRASS referred to its Legal Services Unit; and (iii) that Unit also has to issue an opinion on several withdrawals by SITRASAR members subsequent to the submission of the application, and as a result the application is still pending.

318. Observing that more than a year has passed since the application for the recognition and registration of SITRASAR's legal personality was submitted and that the application has still not been processed, the Committee recalls that a one-year period for treating a union's application for registration is excessive and not conducive to harmonious industrial relations [see **Compilation**, para. 467], and that a long registration procedure constitutes a serious obstacle to the establishment of organizations and amounts to a denial of the right of workers to establish organizations without previous authorization [see **Compilation**, para. 463]. The Committee urges the Government to proceed with the registration of SITRASAR without further delay, provided that it meets legislative requirements, and to keep the Committee duly informed in this regard.
319. With regard to the alleged acts of anti-union discrimination and interference against SITRASAR, the Committee notes that, according to the complainant organizations: (i) 47 SAR workers formed SITRASAR on 10 May 2023, and submitted the above-mentioned application for the recognition and registration of its legal personality to SETRASS on 16 June 2023; (ii) on 19 June 2023, SAR dismissed the five leaders of SITRASAR (Ms Ana Carolina Rivera Zuniga, president; Mr Alex Reinaldo Baquis Corea, treasurer; Mr Denis Mauricio Molina Lupiac, general secretary; Ms Lesly Melissa Torres Valladares, secretary; and Mr Jairo Osmin Matamoros Romero, vice-president); (iii) on 20 June 2023, after the representatives of SITRASAR filed an application for special state protection for its members, SAR dismissed 20 of them and transferred some posts; (iv) they filed a case with the Labour Inspectorate concerning some of these dismissals, as well as several administrative appeals with SETRASS; (v) SAR also formed a parallel union to SITRASAR, SIEMPSARH, with new and trusted workers; and (vi) they lodged an appeal against an application for the recognition and registration of legal personality filed by SIEMPSARH, but SETRASS declared the appeal inadmissible and approved the application. The Committee also notes that the Government does not respond specifically to these allegations.
320. Observing that it is alleged that the aforementioned dismissals and transfers took place shortly after the union was formed and immediately followed one of the applications filed by SITRASAR in relation to its registration and the protection of its members, the Committee recalls that, where cases of alleged anti-union discrimination are involved, the competent authorities dealing with labour issues should begin an inquiry immediately and take suitable measures to remedy any effects of anti-union discrimination brought to their attention [see **Compilation**, para. 1159]. With regard to the alleged establishment of SIEMPSARH by SAR, the Committee also recalls the importance it attaches to protection being ensured against acts of interference by employers designed to promote the establishment of workers' organizations under the domination of an employer [see **Compilation**, para. 1215]. The Committee therefore requests the Government to carry out immediately an independent investigation into the alleged dismissals, transfers and acts of anti-union interference against SITRASAR and its members and, should the allegations be found to be true, to ensure that appropriate remedial measures and sufficiently dissuasive sanctions are taken. The Committee requests the Government to report on the outcome of the above-mentioned investigation, as well as on the outcome of the cases before the Labour Inspectorate and the administrative appeals lodged by the complainant organizations.

The Committee's recommendations

321. In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:
- (a) The Committee requests the Government to take the necessary steps to ensure that an independent investigation is carried out without delay into the allegations concerning the Union of Workers of the Ministry of Labour and Social Security (SITRASTSS) and, should the allegations be found to be true, that appropriate

remedial measures are taken. The Committee requests the Government to keep it informed of any developments in this regard.

- (b) The Committee urges the Government to proceed without further delay with the registration of the Union of Workers of the Revenue Administration Service (SITRASAR), provided that it meets legislative requirements, and to keep it duly informed in this regard.
- (c) The Committee requests the Government to carry out immediately an independent investigation into the alleged dismissals, transfers and acts of anti-union interference against SITRASAR and its members and, should the allegations be found to be true, to ensure that appropriate remedial measures and sufficiently dissuasive sanctions are taken. The Committee requests the Government to report on the outcome of the above-mentioned investigation, as well as on the outcome of the cases before the Labour Inspectorate and the administrative appeals lodged by the complainant organizations.

Case No. 2508

Interim report

Complaint against the Government of the Islamic Republic of Iran presented by

- the International Trade Union Confederation (ITUC) (the initial complainant in 2006 was the International Confederation of Free Trade Unions (ICFTU), before it merged into the ITUC) and
- the International Transport Workers' Federation (ITF)

Allegations: The complainants denounce acts of repression against the local trade union at a city bus company, as well as the arrest and detention of large numbers of trade unionists

- 322.** The Committee last examined this case (submitted in 2006) at its June 2024 meeting, when it presented an interim report to the Governing Body [see 407th Report, approved by the Governing Body at its 351st Session, paras 250–267].⁹
- 323.** The Government forwarded a communication on 10 September 2024 and transmitted additional information on 22 and 30 April 2025.
- 324.** The Islamic Republic of Iran has not ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), or the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

⁹ [Link to previous examination here.](#)

A. Previous examination of the case

325. At its June 2024 meeting, the Committee made the following recommendations [see 407th Report, para. 267]:

- (a) Noting that two years after their arrest, Ms Kohler and Mr Paris remain in provisional detention, the Committee again firmly urges the Government to ensure that they are immediately released and to guarantee their safe return to their country and to keep it informed of the measures taken in this regard. The Committee further firmly urges the Government to ensure the immediate release of Mr Shahabi and Mr Saeedi, should their conviction be related to their trade union activities.
- (b) The Committee reiterates its previous request for information, as set out in its 403rd Report, paragraph 304(a).
- (c) The Committee again urges the Government to initiate expedite the process of reviewing Chapter VI of the Labour Law; the bylaw on establishment, the scope of duties and powers, and the forms of operation of trade associations and their confederations; and the guidelines and procedures concerning arts, media, and culture professional organizations, with a view to repealing the provisions that impose trade union monopoly at any level and replacing them with provisions that recognize the right of all workers, to establish and join organizations of their own choosing. It requests the Government to provide information on the steps taken in this respect and to communicate any draft drawn up or text adopted in the process.
- (d) The Committee once again urges the Government to ensure that the Syndicate of Workers of Tehran and Suburbs Bus Company (SVATH) can function without hindrance through its de facto recognition pending legislative reform, and by ensuring that its officials and members are not arrested, detained and prosecuted for legitimate trade union activities.
- (e) The Committee recalls the importance it attaches to the 1970 Resolution concerning Trade Union Rights and Their Relation to Civil Liberties and draws the Governing Body's attention to the serious and urgent nature of this case.

B. Additional information from the complainant

326. In a communication dated 30 January 2025, the International Trade Union Confederation (ITUC) raises its urgent concern over the 1,000 days in arbitrary detention of Cécile Kohler and Jacques Paris. The ITUC recalls that since their illegal arrest on 8 May 2022, Cécile Kohler and Jacques Paris remain unlawfully detained in Evin prison, in the high security quarter for political prisoners under the control of the intelligence services, accused of "association and collusion with the aim of undermining the security of the country", which carries a sentence of two to five years imprisonment. Their situation remains dire as their state of health deteriorates due to the deplorable conditions of detention in which they are kept. They are in complete ignorance of any ongoing judicial proceedings.

327. According to the ITUC, their conditions of detention fall far below international standards and are tantamount to torture: they live in 8-square-metre cells without windows, randomly shared with other inmates. Lights are on all day and there is 24-hour video surveillance. They are allowed three outings per week of 30 minutes each in a courtyard; however, these outings are often cancelled. Their lives are completely under the control of their jailers, and they are often subjected to ill-treatment and psychological torture, including intimidation, threats and repeated acts of manipulation. They are forbidden to talk to other detainees. Cécile's glasses were confiscated by her jailers, even though she suffers from very poor eyesight.

328. Contact with their families is scarce, as they are allowed to call home once a month at most. These calls are unscheduled and Cécile's and Jacques' families, who are not given any prior

notice of the upcoming call, live in fear of missing it. This chance to call home is, however, often denied by the prison authorities for no apparent reason and months can go by before they can give any sign of life to their families. When they are able to call, the conversations take place under high surveillance, and Cécile and Jacques cannot express themselves freely about their conditions of detention or their state of health. These calls last an average of five minutes.

- 329.** The last sign of life they were allowed to give their families was a call on 26 January 2025. They are not allowed to contact the French Embassy in Tehran.
- 330.** These conditions do not comply in any way with the 2015 United Nations Standard Minimum Rules for the Treatment of Prisoners (the “Nelson Mandela Rules”) which set forth a number of minimum requirements for the protection of the rights of persons deprived of their liberty that State authorities must adhere to.
- 331.** Cécile Kohler and Jacques Paris have been authorized only three consular visits in almost three years of detention, the last of which took place a year ago, on 18 February 2024. This visit, like the first two, took place in a heavily controlled environment. They were afforded only 20 minutes with the representative of the French Government, under strict surveillance by the prison authorities and with a ban on talking about the criminal charges against them and the judicial proceedings. They have no way of getting in touch with the consular authorities. The French Embassy has made multiple requests for consular visits, but they are systematically rejected.
- 332.** By denying due process to Cécile Kohler and Jacques Paris, the Iranian authorities are violating the most fundamental rights of all individuals, that is freedom from arbitrary arrest and detention, the right to be informed of the charges brought against them, the right to have adequate time and facilities for the preparation of their defence and to communicate freely with counsel of their own choosing, and the right to a prompt trial by an impartial and independent judicial authority. These due process guarantees are enshrined in the Universal Declaration of Human Rights (Articles 9 and 10) and in the International Covenant on Civil and Political Rights (Articles 9 and 14), which the Islamic Republic of Iran ratified in 1975.
- 333.** The ITUC expresses its deepest concern at the total lack of due process and the prolonged detention of Cécile Kohler and Jacques Paris. It is one of the fundamental rights of the individual that a detainee be brought without delay before the appropriate judge and, in the case of trade unionists, freedom from arbitrary arrest and detention and the right to a fair and rapid trial are among the civil liberties which should be ensured by the authorities in order to guarantee the normal exercise of trade union rights. The ITUC firmly contests the charges of “association and collusion with the aim of undermining the security of the country”, which were brought against them for activities which fall well within legitimate trade union activities.
- 334.** The Government of Iran has yet to take any measures to comply with the Committee’s previous recommendations in this case. In view of the gravity of the situation, the ITUC requests the Committee once again to call on the Government of Iran to immediately drop all charges and release Cécile Kohler and Jacques Paris and ensure their safe return to their home country without any further delay.

C. The Government’s reply

- 335.** In its communication received on 10 September 2024, the Government indicates that, following diligent efforts and with the cooperation of the judiciary, Mr Reza Shahabi, Mr Hassan Saeedi and Mr Keyvan Mohtadi have been released from prison.

- 336.** Additional information in reply to Committee's previous recommendations was sent on 22 April 2025. As regards the ratification of the Right to Organise and Collective Bargaining Convention, 1949 (No 98), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No 144), the Government indicates the bill to that effect has been submitted to Parliament and will be placed on the agenda, bearing in mind the tight schedule of Parliament. The Government emphasizes, however, that it is also awaiting the technical assistance agreed upon with the ILO, ACTRAV and ACTEMP.
- 337.** As regards the legislative framework, for freedom of association, the Government indicates that the labour law has not been revised but that the Ministry is pursuing efforts to amend the regulations for arts, media and cultural organizations.
- 338.** Regarding the two French citizens, Cécile Kohler and Jacques Paris, the Government indicates that, despite the fact that they were arrested on charges unrelated to union activities, considering the communications by the ILO and Education International, efforts are being made to ensure that the above individuals receive pardons and amnesty based on the laws and regulations.
- 339.** The Government concludes by reiterating its call for necessary technical assistance for the better and faster implementation of international labour standards in the Islamic Republic of Iran and to dispatch their technical and expert delegations to the country to conduct required training in order to strengthen relations and enhance the level of cooperation.
- 340.** Finally, on 30 April, the Government transmits an update on the release of some 15 labour activists of which only 1 figured in the case, Keyvan Mohtadi. The Government provides further details as to his sentencing to one and five years respectively on charges of acting against the State and assembly and colluding with the intention to act against national security. Following an appeal his sentence was reduced and he was released after serving 864 days.

D. The Committee's conclusions

- 341.** *The Committee recalls that this case, lodged in 2006, concerns acts of repression against the Syndicate of Workers of Tehran and Suburbs Bus Company (SVATH), as well as the arrest, detention and condemnation of large numbers of trade union members and officials, including foreign trade unionists, and the inadequate legislative framework for the protection of freedom of association.*
- 342.** *The Committee notes with deep concern the additional information submitted by the ITUC concerning the continued provisional detention of Ms Cécile Kohler and Mr Jacques Paris since 7 May 2022, which has now lasted for three years.*
- 343.** *The Committee recalls that the Government previously indicated that the couple were charged with the crime of "assembly and collusion with the intention of committing a crime against the security of the State", which carries a punishment of two to five years imprisonment, for having provided training to the members of Iranian teachers' unions on methods of organizing, on holding strikes and protests, and on methods of safe contacts and communications avoiding surveillance by intelligence services. The Committee further recalls that it had noted in its previous examination of this case that the acts attributed by the Government to Ms Kohler and Mr Paris fall within legitimate trade union activities for which no one should be arrested, detained, prosecuted or sentenced and had firmly urged the Government to ensure that they are immediately released and to guarantee their safe return to their country.*
- 344.** *The Committee notes the latest information provided by the Government that, even though they were arrested on charges unrelated to union activities, considering the communications from the ILO and Education International, efforts are being made to ensure that the above individuals receive pardons*

and amnesty based on the laws and regulations. While noting the efforts apparently now being made for their release, the Committee regrets that no information was provided by the Government concerning the nature of their trial or the due process guarantees ensured to these two trade unionists, including those rights set forth in the International Covenant on Civil and Political Rights and in particular: to be informed promptly and in detail in a language which he/she understands of the nature and cause of the charge against him/her; to have adequate time and facilities for the preparation of his/her defence and to communicate with counsel of his/her own choosing; to be tried without undue delay; and to have the free assistance of an interpreter if he/she cannot understand or speak the language used in court. While the Government's indication of a possible pardon after three years' detention would be a positive move in this case, the Committee observes that, three years after their initial arrest, it has yet to be informed of their conviction by a court of law or provided a copy of any judicial decision in their case. The Committee must therefore recall that "The detention of trade unionists for reasons connected with their activities in defence of the interests of workers constitutes a serious interference with civil liberties in general and with trade union rights in particular", and that "Preventive detention should be limited to very short periods of time intended solely to facilitate the course of a judicial inquiry" [see **Compilation of decisions of the Committee on Freedom of Association**, sixth edition, 2018, paras 123 and 140].

345. Further noting that Mr Shahabi and Mr Saeedi, members of the SVATH, sentenced to six years imprisonment for having met with Ms Kohler and Mr Paris and participating in May Day demonstrations in 2022, and Mr Keyvan Mohtadi (the interpreter for Cécile Kohler and Jacques Paris), were released in September 2024, two years after their arrest, the Committee observes with deep regret that Ms Kohler and Mr Paris remain in preventive detention. While taking due note of the news of the release of Mr Shahabi, Mr Saeedi and Mr Mohtadi and expressing the firm expectation that they can continue to carry out their trade union activities free from interference and in a climate free from threat or intimidation, the Committee firmly urges the Government to ensure the immediate release of Ms Kohler and Mr Paris and guarantee their safe return to their country.
346. As regards the legislative framework for freedom of association, the Committee notes the Government's indication that the labour law has not been revised but that the Ministry is pursuing efforts to amend the regulations for arts, media and cultural organizations. The Committee recalls that throughout the examination of this case, it has noted that a trade union monopoly is enshrined not only in the provisions of the Labour Law but also in the By-law on the establishment, the scope of duties and powers, and the forms of operation of trade associations and their confederations (the By-law); and the guidelines and procedures concerning arts, media and culture professional organizations [see 396th Report, paras 442–443]. The Committee once again urges the Government to initiate the process of reviewing Chapter VI of the Labour Law and the By-law on the establishment, the scope of duties and powers, and the forms of operation of trade associations and their confederations which provide the overarching framework for organizing in the country and to keep it informed of the efforts to amend the guidelines and procedures concerning arts, media and culture professional organizations, with a view to the abrogation of all provisions imposing a trade union monopoly at any level and their replacement with provisions that recognize the right of all workers and employers to establish and join organizations of their own choosing. It requests the Government to provide information on the steps taken in this respect and to communicate any draft drawn up or text adopted in the process.
347. Noting that the bill for the ratification of Conventions Nos 98 and 144 is still with Parliament and taking due note of the Government's request for technical assistance, the Committee expresses the firm expectation that, with this assistance and in full consultation with representatives of workers and employers, the Iranian legislation will be rapidly brought into line with freedom of association.

It further reiterates its previous request for information, as set out in its 403rd Report, paragraph 304(a).

- 348.** *In the absence of any information from the Government in relation to the functioning of the SVATH, the Committee once again urges it to ensure that the SVATH can function without hindrance through its de facto recognition pending legislative reform, and to take steps to ensure that its officials and members are not arrested, detained and prosecuted for legitimate trade union activities. The Committee requests the Government to keep it informed of the steps taken and the progress made in this regard.*

The Committee's recommendations

- 349.** In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following:

- (a) Noting that three years after their arrest, Ms Cécile Kohler and Mr Jacques Paris remain in provisional detention, the Committee again firmly urges the Government to ensure that they are immediately released and to guarantee their safe return to their country and to keep it informed of the measures taken in this regard.
- (b) The Committee again urges the Government to initiate the process of reviewing Chapter VI of the Labour Law and the By-law on the establishment, the scope of duties and powers, and the forms of operation of trade associations and their confederations, which provide the overarching framework for organizing in the country and to keep it informed of the efforts to amend the guidelines and procedures concerning arts, media and culture professional organizations, with a view to the abrogation of all provisions imposing a trade union monopoly at any level and their replacement with provisions that recognize the right of all workers, to establish and join organizations of their own choosing. It requests the Government to provide information on the steps taken in this respect and to communicate any draft drawn up or text adopted in the process.
- (c) The Committee expresses the firm expectation that, with ILO technical assistance and in full consultation with representatives of workers and employers, the Iranian legislation will be rapidly brought into line with freedom of association. It further reiterates its previous request for information, as set out in its 403rd Report, paragraph 304(a).
- (d) The Committee once again urges the Government to ensure that the Syndicate of Workers of Tehran and Suburbs Bus Company (SVATH) can function without hindrance through its de facto recognition pending legislative reform, and to take steps to ensure that its officials and members are not arrested, detained and prosecuted for legitimate trade union activities. The Committee requests the Government to keep it informed of the steps taken and the progress made in this regard.
- (e) The Committee recalls the importance it attaches to the 1970 Resolution concerning Trade Union Rights and Their Relation to Civil Liberties and draws the Governing Body's attention to the serious and urgent nature of this case.

Cases Nos 2177 and 2183

Report in which the Committee requests to be kept informed of developments

Complaints against the Government of Japan presented by

- the Japanese Trade Union Confederation (JTUC-RENGO)
- the RENGO Public Sector Liaison Council (RENGO-PSLC)
- the National Confederation of Trade Unions (ZENZOREN) and
- the Japan Federation of Prefectural and Municipal Workers' Unions (JICHIROREN)

supported by

- the International Confederation of Free Trade Unions (ICFTU)
- Public Services International (PSI)
- the International Transport Workers' Federation (ITF)
- the International Federation of Building and Wood Workers (IFBWW)
- Education International (EI)
- the International Federation of Employees in Public Services (INFEDOP) and
- Union Network International (UNI)

Allegations: At its origin, the complainants had alleged that the reform of the public service legislation was developed without proper consultation of workers' organizations, further aggravating the existing public service legislation and maintaining the restrictions on the basic trade union rights of public employees, without adequate compensation

350. The Committee has already examined the substance of these cases on eleven occasions, most recently at its June 2018 meeting, when it presented an interim report to the Governing Body [386th Report, paras 379–423, approved by the Governing Body at its 333rd Session (June 2018)].¹⁰

351. The Japanese Trade Union Confederation (JTUC-RENGO) (Case No. 2177) submitted additional information in a communication dated 12 March 2025.

352. The Government sent its observations in a communication dated 3 March 2025.

¹⁰ 386th Report, paras 379–423, approved by the Governing Body at its 333rd Session (June 2018).

- 353.** Japan has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. Previous examination of the case

- 354.** At its June 2018 meeting the Committee made the following recommendations [see 386th Report, para. 423].

- (a) The Committee once again urges the Government to engage meaningful consultation with the social partners concerned, without further delay and in line with its previous recommendations, to:
 - (i) grant basic labour rights to public servants;
 - (ii) fully grant the right to organize and collective bargaining to firefighters. The Committee strongly encourages the parties to pursue their ongoing efforts with a view to achieving a consensus on granting the right to organize and to collective bargaining to firefighters;
 - (iii) fully grant the right to organize and to collective bargaining to prison staff. In this regard, the Committee requests the Government to keep it informed of any progress made in consulting with the social partners and other concerned stakeholders on measures to ensure that prison officers other than those with the specific duties of the judicial police may form and join the organization of their own choosing to defend their occupational interests.
 - (iv) ensure that public employees not engaged in the administration of the State have the right to bargain collectively and to conclude collective agreements, and that those employees whose bargaining rights can be legitimately restricted enjoy adequate compensatory procedures;
 - (v) ensure that those public employees who are not exercising authority in the name of the State can enjoy the right to strike, in conformity with freedom of association principles, and that union members and officials who exercise legitimately this right are not subject to heavy civil or criminal penalties; and
 - (vi) determine the scope of bargaining matters in the public service.

The Committee expects that the necessary legislative amendments will be enacted without delay and requests the Government to keep it informed of developments.
- (b) The Committee once again requests the Government to continue to provide information on the functioning of the NPA recommendation system, as a compensatory measure until the basic labour rights are granted to public servants.
- (c) The Committee requests the Government and the complainant organizations to keep it informed of the results of the remaining lawsuits filed by a number of workers' unions of national university corporations opposing unilateral reduction of wages.

B. Additional information from a complainant

- 355.** In its communication of 12 March 2025, the Japanese Trade Union Confederation (JTUC-RENGO) provided the following information with regard to the pending issues:
- 356.** JTUC-RENGO strongly asserted that the Government has failed to act on the recommendations made by the Committee since its last examination of the case in 2018, offering only formal responses and demonstrating no actual progress in the seven years since the Committee's report was issued.

357. JTUC-RENGO referred to its observation transmitted in August 2024 to the Committee of Experts on the Application of Conventions and Recommendations (CEACR) stating its intent to carefully monitor the Government's handling of new discussions with employers' and workers' organizations concerning public service employees, following the conclusions made in June 2024 by the Committee on the Application of Standards (CAS) of the International Labour Conference. JTUC-RENGO however expressed disappointment with an initial meeting organized on 19 December 2024, finding no indication of a sincere commitment from the Japanese Government to resolve the issues, and describing the meeting as merely a forum for exchanging differing views.
358. The explanations and materials provided by Government ministries simply reiterated the existing constraints and the Government's unilateral justification, previously criticized by ILO supervisory bodies. Furthermore, the Government introduced topics outside the scope of the CAS conclusions, such as securing human resources and addressing harassment, which JTUC-RENGO perceived as an attempt to avoid discussing basic labour rights. Despite the CAS conclusion's call for consultations with employers' and workers' organizations, JTUC-RENGO felt the Government treated the meeting as a mere formality, as reflected in its title "an exchange of opinions". Lastly, JTUC-RENGO urged the Committee to specify to the Government to include in further discussions the responsible personnel in the Japanese Government ministries, as well as the related social partner, which is the Alliance of Public Services Workers Unions (KOMU-ROKYO), affiliated with JTUC-RENGO.
359. JTUC-RENGO highlighted that while the CAS conclusions included a reference to "further improvements of the status and labour conditions of firefighters", the precise meaning of this statement lacks clarity. The complainant emphasized that there is a lack of shared understanding regarding this point among the relevant parties in Japan, encompassing employers' and workers' organizations.
360. JTUC-RENGO emphasized the extensive history of this issue, noting that eleven reports have been produced since the case was first brought before the Committee on Freedom of Association in February 2002. These reports were grounded in the realities of public employees' basic labour rights, not just in Japan but elsewhere, and are further supported by international labour standards derived from Conventions Nos 87 and 98. Consequently, JTUC-RENGO argued that the conclusions reached in the Committee's successive reports are clear, universal and binding. Therefore, JTUC-RENGO urged the Committee to take the most severe measures available against the Government for the immediate resolution to this long-lasting issue.
361. In addition, JTUC-RENGO provided its observation to the CEACR on the various issues:

Right to organize of firefighting personnel

362. Based on the 2018 CAS conclusions, the Government's sole concrete action has been consultation with social partners at the national level regarding their view of firefighters as equivalent to the police and its consistency with the application of Convention No. 87. JTUC-RENGO reminded the CEACR that despite the Annual Report of the Government detailing consultations since 2019, no meeting has fulfilled the CEACR's expectation for progress towards ensuring that firefighters enjoy their right to organize. The core reason is the Government's firm stance that Japan ratified Convention No. 87 based on the Committee's view (54th Report of the Committee on Freedom of Association) that Japanese firefighting includes "some duties that should be viewed as equivalent to the police", justifying the denial of firefighters' right to organize. JTUC-RENGO contended that this stance obstructs any meaningful progress in consultations.

- 363.** JTUC-RENGO also highlighted that during the Noto Peninsula Earthquake (January 2024), firefighting organizations demonstrated a more rapid wide-area emergency and support system than the police and self-defence forces, attributing this to firefighters' strong sense of duty, unrelated to the right to organize. JTUC-RENGO criticized the Government's argument that recognizing the right to organize would negatively affect firefighters' actions as it denies freedom of association and disregards firefighters' dedication.
- 364.** JTUC-RENGO argued that the Fire Defence Personnel Committee (FDPC) system was established in 1995 through an agreement between the Government and labour, with the aim of enhancing the management of firefighting and ambulance services. While improving this system is considered important, the Fire and Disaster Management Agency of the Ministry of Internal Affairs and Communications (MIC) released the results of the fiscal year 2022 management situation in October 2023, revealing that the notification's general meaning under the committee system may not be fully understood in some fire departments. This highlights that the FDPC system's management has become largely symbolic due to issues like the non-participation of employers with responsibility and authority, especially considering it has been nearly 30 years since its implementation.
- 365.** JTUC-RENGO questioned the Annual Report of the Government claiming that the FDPCs were somewhat successful in improving working conditions for fire defence personnel during the COVID-19 pandemic. The committee's procedures, involving opinion submission, summarization, deliberation, reporting to the fire chief, budget requests, and adjustments, are time-consuming, and the Government has not addressed this issue. In emergencies like the COVID-19 pandemic, immediate improvements in working conditions are crucial. Effective collective bargaining through the right to organize could have enabled prompt improvements to work duties and conditions based on real-time experiences.
- 366.** Furthermore, while the Report of the Government mentions the establishment of a quarantine work allowance as an achievement, it is argued that this was not due to the FDPC system. Instead, the allowance is believed to have been initiated by the National Personnel Authority (NPA) for national public service employees in March 2020 and later extended to local public service employees, including firefighters. The establishment of the quarantine work allowance is seen more as an effort to align remuneration and working conditions with those of national public service employees.

Right to organize of prison staff

- 367.** JTUC-RENGO criticized the Government's continued assertion that prison staff should be considered part of the police force under Article 9 of Convention No. 87, a view based on the 12th and 54th Reports of the Committee on Freedom of Association. Relying on the 54th Report, issued over 60 years ago, is problematic. JTUC-RENGO recalled that in 2018 the CAS recommended that the Government consult with social partners to determine which categories of prison officers, considered as part of the police, should be exempt from the right to organize and which should have that right. JTUC-RENGO also pointed out that in 2018, both the Committee and the CEACR stated that the fact that some prison officers are authorized to carry weapons does not equate to them being members of the police or armed forces. Therefore, JTUC-RENGO argued that the carrying and use of weapons is not a valid reason to deny prison staff the right to organize.
- 368.** JTUC-RENGO also refuted the Government's additional reason for denying the right to organize, that it would hinder the prompt suppression of emergencies and the maintenance of order in prisons. JTUC-RENGO contended that prison duties and labour union rights are distinct issues and that the Government's claim is merely a sophism to deny the right to

organize, especially since there is no precedent for such a situation in Japan. JTUC-RENGO criticized the lack of progress in implementing the 2018 Conference Committee's recommendation to classify prison officers in consultation with social partners, accusing the Government of intentionally ignoring the existence of relevant labour organizations and disregarding ILO supervisory mechanisms. The Government must immediately recognize the right of prison staff to organize as this was essential for improving the closed working environment to make it fair, open and democratic.

Basic labour rights of public service employees

- 369.** In the view of JTUC-RENGO, the NPA recommendations, presented by the Government as a compensatory measure for restricting basic labour rights of public service employees, have a history of inconsistent and delayed implementation. Although the recommendations began in 1948, full implementation, both in content and timing, was not achieved until 1970. Furthermore, implementation was postponed in 1982, and subsequent revisions faced reductions and altered timing, demonstrating the recommendations' lack of binding force and the Government's discretionary control over their application. The handling of the 2021 NPA recommendation referred to by the Government in its report, which involved salary reductions implemented in June 2022 due to political circumstances, further illustrates the mechanism's inadequacy and the anxiety it causes among public service employees. In its conclusions in 2018 and 2024, when examining implementation by Japan of Convention No. 87, the CAS urged the Government to ensure that the NPA procedures guarantee effective, impartial and speedy conciliation and arbitration. JTUC-RENGO drew attention to the continued lack of progress in consultations with social partners on this matter.
- 370.** JTUC-RENGO argued that the establishment of an autonomous industrial relations system was mandated by the Basic Act on National Public Service Employee System Reform, enacted in June 2008. This act required the Government to "provide for" such a system, not merely "consider" it, implying a legislative duty to implement it. While the Government submitted related bills to the National Diet in 2011, they were abandoned due to political divisions, contrary to the Government's claim that it was due to public opinion. Public opinion surveys at the time indicated support for introducing a labour-management negotiation system for determining working conditions.
- 371.** JTUC-RENGO regretted that, despite the 2018 CAS conclusions highlighting the lack of progress on the autonomous labour-employer relations system and requesting the Government to examine it in consultation with social partners, no concrete action has been taken. JTUC-RENGO criticized the Government's avoidance of its responsibilities and its repeated delays, stating that the Government's "careful consideration" means "doing nothing", as exemplified by the lack of examination into the "benefits and costs" of granting the right to conclude agreements.
- 372.** JTUC-RENGO also refuted the Government's argument that restrictions on basic labour rights for national public service employees are limited because officials transferred to the private sector or Incorporated Administrative Agencies are granted complete basic labour rights. JTUC-RENGO reiterated that the 2014 reform, which created independent administrative agencies, was an administrative reform to separate manual work and service departments, not a measure to improve the industrial relations system of national administrative organs. JTUC-RENGO argued that the Report of the Government attempted to manipulate the decrease in national public service employees due to administrative reform to justify the existing restrictions on their labour rights.

- 373.** Regarding the Committee's request for consultation with the social partners on measures for the autonomous labour–employer relations system, JTUC–RENGO indicated that the Report of the Government states that it is carefully examining how to respond to the CAS recommendations through consultations with social partners. JTUC–RENGO noted that this differed from previous reports, where the Government indicated it was “exchanging opinions” with “JTUC–RENGO”. However, JTUC–RENGO argued that the Government has not complied with the 2018 CAS recommendation for over six years, which demonstrates the Government's intentionally dismissive attitude. In response to the conclusion of the 2024 CAS, the Government mentioned a “new exchange of opinions” with domestic employers' and workers' organizations. JTUC–RENGO stated it would closely monitor the Government's good faith in these future developments. To ensure the Government adheres to the Report of the CEACR, JTUC–RENGO urged the Committee to specify: (i) a minimum two-year time frame for the action plan's formulation; (ii) the responsible personnel in the Japanese Government ministries; and (iii) that the “related social partner” is the KOMU–ROKYO, affiliated with JTUC–RENGO.

C. The Government's reply

- 374.** In its communication dated 3 March 2025, the Government provided the following information:
- 375.** The Government indicated that it provided information in reply to the Committee's previous recommendations as detailed in its report to the CEACR in 2024.
- 376.** The Government initiated a new dialogue with domestic employers' and workers' organizations on issues related to the public service employee system. A meeting for this dialogue, hosted by the Cabinet Bureau of Personnel Affairs and the Cabinet Secretariat, was held on 19 December 2024, in accordance with the conclusions of the CAS in 2024. The meeting, including an informal dinner, lasted two and a half hours and was considered productive and well received by the attending employer and worker representatives. The Government was committed to continuing this dialogue to facilitate ongoing fruitful discussions among the social partners.
- 377.** The Government indicated that the December 2024 meeting involved representatives from various relevant ministries and authorities, including the Cabinet Bureau of Personnel Affairs, the NPA, the MIC, the Fire and Disaster Management Agency, and the Ministry of Justice, with the Ministry of Health, Labour and Welfare participating as observers. Employer and worker organizations were represented by the Japan Business Federation (Keidanren) and JTUC–RENGO. Discussions involved detailed explanations from each ministry/authority regarding the conclusions of the CAS adopted in June 2024, with an emphasis on open communication. According to the Government, JTUC–RENGO expressed satisfaction with the presence of all relevant institutions and anticipated in-depth discussions on each issue, while Keidanren valued the dialogue platform and looked forward to fruitful discussions based on detailed information and explanations. The Government and the employer and worker representatives agreed to continue using this platform for further discussions.

Right to organize of firefighting personnel

- 378.** The Government indicated that, following the 2018 CAS conclusions, the MIC initiated regular consultations with employee representatives, starting in January 2019, aimed to discuss the Government's stance that fire defence personnel are considered “police” and how this view aligns with the application of relevant ILO Conventions. Subsequent meetings also included substantial discussions on the FDPC system, designed to incorporate fire defence personnel's input on their working conditions (2019). Further consultations addressed modern fire

administration issues (2020) and harassment concerns (2021), with employees expressing their appreciation for the regularity of these discussions.

- 379.** Continuing these dialogues, the MIC held further consultations to examine the implementation of the amended FDPC system (January 2022) and the re-employment system for fire defence personnel (March 2022). A key point of contention, the classification of fire defence personnel as “police” was debated, with the MIC emphasizing the necessity of fire departments’ cooperation with other organizations due to Japan’s vulnerability to frequent disasters. While some understanding was reached regarding differing views on the right to organize, both parties committed to ongoing exchanges on various issues affecting fire defence personnel. Later consultations also covered workplace harassment, female firefighters’ employment and empowerment, and ambulance services during the COVID-19 pandemic, with the MIC outlining measures to address these challenges (December 2022).
- 380.** The Government argued that the effectiveness of disaster response was highlighted by the large-scale mobilization of fire departments following the 2024 Noto Peninsula Earthquake, demonstrating the need for unified command and coordinated action with other agencies. Efforts to improve the FDPC system intended to facilitate workers’ input, included amendments to its implementation policy in 2018 and subsequent surveys to assess its operational status. To ensure smoother operation, the MIC issued guidelines emphasizing communication between fire chiefs and fire defence personnel regarding FDPC opinions and the implementation of related measures. The Government contended that these efforts have contributed to improvements in working conditions, such as harassment countermeasures and the establishment of allowances during the COVID-19 pandemic, with ongoing efforts to further streamline the FDPC system.

Right to organize of prison staff

- 381.** The Government argued that prison officers’ duties, which include incarcerating various categories of detainees and possessing the authority to investigate crimes and arrest inmates within penal institutions, align them with judicial police work. Additionally, prison officers are legally authorized to carry and use weapons, like police officials. Therefore, the Government believed that under Article 9 of ILO Convention No. 87, prison officers are appropriately classified as “police”, a view supported by the Committee on Freedom of Association in its 12th and 54th Reports.
- 382.** Furthermore, the Government emphasized the necessity for prison personnel, including but not limited to prison officers, to use force to control emergencies within penal institutions under the direction and supervision of the highest-ranking officer present. The Government argued that granting prison personnel the right to organize would hinder their ability to perform these duties effectively and maintain order and discipline within the facilities. Based on these points, the Government concludes that prison personnel are not entitled to the right to organize.
- 383.** However, acknowledging observations from the CEACR, the Government took steps to create and expand opportunities for prison personnel to express their opinions on their working environment. This includes facilitating exchanges of views between executives and staff representatives at Regional Correctional Headquarters (eight), focusing on improvements to the work environment, staff training and workload reduction (from October to December 2023). These are agencies with authority over penal institutions based on jurisdictional areas. Efforts are also being made to address specific issues in women’s penal institutions (2023), and consultation services and mental health support have been introduced to improve staff well-

being, including work-life balance. Despite these measures, the Government maintained its view that prison personnel are not entitled to the right to organize.

Basic labour rights of public service employees

- 384.** The Government recalled that the Japanese system places certain restrictions on the basic labour rights of public service employees. This is justified by their unique role as servants of all citizens and the public nature of their functions, which are intended to serve the common interests of society. To compensate for these limitations, neutral, third-party organizations like the NPA and Personnel Committees have been established. These entities are responsible for issuing recommendations and implementing other measures to ensure fair treatment of public service employees.
- 385.** A key function of the NPA is to align the remuneration and working conditions of national public service employees with general societal standards. The Authority conducts annual surveys of working conditions in the private sector, with a particular focus on comparing remuneration levels. Through statistical analysis, the NPA aims to balance pay rates between the public and private sectors by recommending adjustments to address any discrepancies. This system of remuneration revision has been in place since 1960, with the most recent recommendation issued in August 2023. To ensure that its recommendations and measures are appropriate, the NPA actively seeks input from employee organizations. It holds meetings to hear their opinions and requests, which are then reflected in its recommendations and other actions. The frequency of these interactions is substantial, with 190 official meetings held in 2022 and 186 in 2023. Furthermore, when revising specific systems, the Authority consults with both employees and employers. For example, during the ongoing review of the remuneration system, employee organizations have been involved from the early stages, providing feedback on draft proposals.
- 386.** According to the Government, this framework establishes a system where employee organizations can participate in the decision-making process concerning their working conditions and remuneration through the NPA recommendations. The Government, in principle, respects this system and drafts bills based on the Authority's recommendations. These bills are then deliberated in the Diet, where revisions are made to ensure suitable working conditions for public service employees. Additionally, employees have access to systems for requesting administrative action and reviews related to their working conditions. The Government recalled that the Supreme Court had affirmed that the NPA recommendation system and related measures serve as compensation for the restrictions placed on basic labour rights.
- 387.** While considering the implementation of an autonomous labour-employer relations system, as suggested by the 2018 CAS conclusions, the Government acknowledged various challenges. These include concerns about increased negotiation costs, potential for confusion, and the risk of prolonged negotiations affecting the execution of public services. The 2014 Amendment Act of the National Public Service Act was formulated within the existing framework of restricted basic labour rights and did not include measures for an autonomous labour-employer relations system. The Government maintained that further careful consideration was necessary, along with continued dialogue with employee organizations and other stakeholders, to address the various issues involved. The Government emphasized that it actively engaged in ongoing discussions with employee organizations at various levels on a wide range of issues, including remuneration, work-life balance, and measures to improve the treatment of non-regular and female employees.

388. Finally, in relation to the Committee's request for consultation with the social partners on the measures for the autonomous labour–employer relations system, the Government indicated that it was carefully considering engaging in consultations with social partners, including discussions at the annual ILO Panel on various related themes. Furthermore, following the 2024 CAS conclusions, the Government stated that it would initiate new exchanges of opinions with domestic employers' and workers' organizations concerning issues within the public service employee system, demonstrating its commitment to fostering greater understanding with social partners and providing information to the ILO in good faith about its efforts.

D. The Committee's conclusions

389. *The Committee recalls that it decided to examine these two cases, initially filed in 2002, in conjunction taking into account that they both initially concern the reform of the public service in Japan and its consequence in terms of realization of freedom of association principles. The Committee notes the additional information from the complainants and the Government in relation to its previous recommendations and on recent steps taken. In this regard, the Committee observes that, since its last examination of the case in 2018, both the complainants and the Government have regularly provided information on the pending matters to the CEACR in the framework of the regular reporting mechanism on the implementation of Convention No. 87, including in 2024. The Committee also observes that the pending matters were also examined by the Committee on the Application of Standards (CAS) in June 2024.*

Basic labour rights of public service employees

390. *The Committee recalls its long-standing recommendations on the need to ensure basic labour rights for public service employees. In particular, in 2018, the Committee had once again urged the Government to engage meaningful consultation with social partners concerned as regards: (i) granting the right to organize and to collective bargaining to firefighters and prison staff; (ii) ensuring that public employees not engaged in the administration of the State have the right to bargain collectively and to conclude collective agreements, and that those employees whose bargaining rights can be legitimately restricted enjoy adequate compensatory procedures; and (iii) ensuring that those public employees who are not exercising authority in the name of the State can enjoy the right to strike, in conformity with freedom of association principles, and that union members and officials who exercise legitimately this right are not subject to heavy civil or criminal penalties. The Committee had also urged the Government to consult the social partners with a view to determining the scope of bargaining matters in the public service.*
391. *In view of the information provided by both the Government and JTUC–RENGO, the Committee deeply regrets that the issue of granting basic labour rights to public service employees remains unresolved despite its repeated recommendations. The Committee recalls its view that public servants, like all other workers, without distinction whatsoever, have the right to establish and join organizations of their own choosing, without previous authorization, for the promotion and defence of their occupational interests. Local public service employees should be able effectively to establish organizations of their own choosing, and these organizations should enjoy the full right to further and defend the interests of the workers whom they represent [see **Compilation of decisions of the Committee on Freedom of Association**, sixth edition, 2018, paras 336 and 353]. The Committee also recalls that all public service workers other than those engaged in the administration of the State should enjoy collective bargaining rights, and priority should be given to collective bargaining as the means to settle disputes arising in connection with the determination of terms and conditions of employment in the public service. A legislative provision which prohibits public authorities and public employees, even those not engaged in the administration of the State, from concluding an agreement, even if they are willing to do so, is contrary to the principle of free and voluntary*

negotiations. The practice of granting certain improvements in conditions to public servants, not within the framework of a collective agreement, but as unilateral decisions, even though they relate to bargaining matters (which makes it more a consultation than bargaining) is problematic. In the Committee's view, this practice does not promote collective bargaining and should be avoided [see **Compilation**, paras 1241, 1473 and 1479].

392. With regard to the National Personnel Authority (NPA) recommendation mechanism, which was originally presented by the Government as compensation for the restrictions placed on the basic labour rights of public service employees, the Committee notes the view of JTUC-RENGO that this mechanism has a history of defective and delayed implementation. JTUC-RENGO contends that the handling of the NPA recommendation by the Government, which occasioned salary reductions due to political circumstances in 2022, demonstrated the mechanism's inadequacy and the anxiety it causes among public service employees. The complainant also recalled the conclusions formulated by the CAS in 2018 and 2024 urging the Government to ensure that the NPA procedures guarantee effective, impartial, and speedy conciliation and arbitration.
393. The Committee notes the Government's argument that the key function of the NPA is to align the remuneration and working conditions of national public service employees with general societal standards. The NPA conducts annual surveys of working conditions in the private sector, with a particular focus on comparing remuneration levels. It aims to balance pay rates between the public and private sectors by recommending adjustments to address any discrepancies. This system of remuneration revision has been in place since 1960, with the most recent recommendation issued in August 2023. To ensure that its recommendations and measures are appropriate, the NPA actively seeks input from employee organizations. It holds meetings to hear their opinions and requests, which are then reflected in its recommendations and other actions. The frequency of these interactions is substantial, with 190 official meetings held in 2022 and 186 in 2023. Furthermore, the Government asserts that, when revising specific systems, the NPA consults social partners. For example, during the ongoing review of the remuneration system, employee organizations have been involved from the early stages, providing feedback on draft proposals. According to the Government, this framework establishes a system where workers' organizations can participate in the decision-making process concerning their working conditions and remuneration through the NPA recommendations. The Government, in principle, respects this system and drafts bills based on the Authority's recommendations. These bills are then deliberated in the Diet, where revisions are made to ensure suitable working conditions for public service employees. The Government also recalls that employees have access to systems for requesting administrative action and reviews related to their working conditions. Lastly, the Government recalls that the Supreme Court had affirmed that the NPA recommendation system and related measures serve as compensation for the restrictions placed on basic labour rights.
394. Observing that divergent views persist between the complainant and the Government on the adequate nature of the NPA as a compensatory measure for restrictions placed on basic labour rights of public service employees, the Committee is bound to once again request the Government to continue to provide information on the functioning of the NPA recommendation system as a compensatory measure, until the basic labour rights are granted to public service employees.
395. As a general matter relating to its recommendation for consultation with the social partners on measures for the autonomous labour-employer relations system, the Committee notes JTUC-RENGO's indication that the Government has not complied with the 2018 CAS recommendation to examine carefully the autonomous labour-employer relations system, in consultation with the social partners, for over six years, which demonstrates the Government's intentionally dismissive attitude. In 2024, the Government indicated that it was carefully examining how to respond to the 2024 CAS conclusions through consultations with social partners. JTUC-RENGO would closely

monitor the Government's good faith in this future development. The Committee observes that JTUC-RENGO expressed disappointment with an initial meeting organized in December 2024, finding no indication of a sincere commitment from the Government to resolve the issues, and describing the meeting as merely a forum for exchanging differing views. JTUC-RENGO asserts that the explanations and materials provided by Government ministries reiterated the existing constraints and the Government's unilateral justification, previously criticized by ILO supervisory bodies. Furthermore, the Government allegedly introduced topics outside the scope of the CAS conclusions, such as securing human resources and addressing harassment, which JTUC-RENGO perceived as an attempt to avoid discussing basic labour rights. Consequently, despite the CAS conclusion's call for consultations with employers' and workers' organizations, JTUC-RENGO felt the Government treated the meeting as a mere formality, as reflected in its title "an exchange of opinions".

- 396.** The Committee notes the Government's view that it initiated a new dialogue with national employers' and workers' organizations on issues related to the public service employee system. A meeting for this dialogue, hosted by the Cabinet Bureau of Personnel Affairs and the Cabinet Secretariat, was held on 19 December 2024, in accordance with the conclusions of the CAS in 2024. The meeting involved representatives from various relevant ministries and authorities, including the Cabinet Bureau of Personnel Affairs, the NPA, the Ministry of Internal Affairs and Communications (MIC), the Fire and Disaster Management Agency, and the Ministry of Justice, with the Ministry of Health, Labour and Welfare participating as observers. Employer and worker organizations were represented by the Japan Business Federation (Keidanren) and JTUC-RENGO. Discussions involved detailed explanations from each ministry/authority regarding the conclusions of the CAS adopted in June 2024, with an emphasis on open communication. The meeting, including an informal dinner, lasted two and a half hours and was considered productive and well received by the attending employer and worker representatives. The Government asserts that JTUC-RENGO expressed satisfaction with the presence of all relevant institutions and anticipated in-depth discussions on each issue, while Keidanren valued the dialogue platform and looked forward to fruitful discussions based on detailed information and explanations. Lastly, the Government indicates that all parties agreed to continue using this platform for further discussions.
- 397.** The Committee encourages the Government's renewed efforts to initiate discussion with the social partners on measures for the autonomous labour-employer relations system. Observing however the divergent views expressed on the appropriateness of the methodology, the Committee urges the Government to engage in meaningful consultation with the social partners concerned in search of the most appropriate mechanism to debate and make progress on the autonomous labour-employer relations system, with a view to ensuring basic labour rights for public service employees. In relation to its previous recommendations, the Committee expects that progress will be made in relation to : (i) ensuring that public employees not engaged in the administration of the State have the right to bargain collectively and to conclude collective agreements, and that those employees whose bargaining rights can be legitimately restricted enjoy adequate compensatory procedures; (ii) ensuring that those public employees who are not exercising authority in the name of the State can enjoy the right to strike under national law, in conformity with freedom of association, and that union members and officials who exercise legitimately this right are not subject to heavy civil or criminal penalties; and (iii) determining the scope of bargaining matters in the public service.

Right to organize of firefighting personnel and prison staff

- 398.** Regarding its previous recommendations on the specific issue of granting the right to organize and collective bargaining to firefighting personnel and prison staff, the Committee recalls its view that the functions exercised by firefighters do not justify their exclusion from the right to organize. They should therefore enjoy the right to organize. The right of firefighters to form and join organizations of their own choosing should also be guaranteed (although the right to collective action may be

subject to restrictions or a prohibition) [see **Compilation**, paras 354 and 355]. Furthermore, prison staff should enjoy the right to organize [see **Compilation**, para. 357].

399. The Committee notes JTUC–RENGO's allegation that, following the 2018 CAS conclusions, the Government's only concrete action was to consult social partners regarding the classification of firefighters as equivalent to the police under Convention No. 87 without leading to real progress in securing firefighters' right to organize. They highlighted the Noto Peninsula Earthquake response from firefighters' organizations as evidence that firefighters' strong sense of duty is independent of union rights, countering the Government's claim that unionization would impede their performance. Additionally, JTUC–RENGO pointed out that the Fire Defence Personnel Committee (FDPC) system, established nearly 30 years ago, has become largely symbolic, with its slow procedures proving inadequate during emergencies like the COVID-19 pandemic, where quicker collective bargaining through the right to organize could have made a meaningful difference.
400. Similarly, JTUC–RENGO condemned the Government's ongoing denial of prison staff's right to organize by misclassifying them as police personnel based on outdated interpretations from over 60 years ago. They stressed that carrying weapons does not justify this denial and criticized the Government for ignoring the 2018 recommendation to consult on which prison staff should have organizing rights. JTUC–RENGO argued that emergency management and unionization are separate matters and accused the Government of using flawed reasoning to avoid granting these rights, ultimately calling for immediate recognition of prison staff unions to foster a more democratic and fair work environment.
401. Regarding firefighters, the Committee notes the Government's indication that, following the 2018 CAS conclusions, the Government, through the MIC, initiated regular consultations with the employees' side starting in January 2019. These meetings focused on the Government's position that fire defence personnel should be classified as "police" in line with interpretations of ILO Conventions. The discussions gradually expanded to include the FDPC system, modern challenges in fire administration, and workplace harassment issues. Over time, the consultations addressed additional topics such as amendments to the FDPC system, the re-employment of personnel, gender equality in firefighting, and emergency medical services during the COVID-19 pandemic. Although disagreement persisted on the core issue of the right to organize, both sides recognized the importance of ongoing dialogue. The Government pointed to the effectiveness of disaster response, especially during the 2024 Noto Peninsula Earthquake, to justify the need for unified command, while also implementing measures to improve the FDPC system's functionality and responsiveness to workers' concerns.
402. Regarding prison staff, the Government reiterated its view that prison officers' roles encompassing detention, investigation, arrests within penal institutions, and authorized use of force aligned them with judicial police, thus falling under the exclusion clause of Article 9 of Convention No. 87. According to the Government, this stance was supported by historical interpretations from the Committee in previous reports. The Government further argued that granting union rights could compromise emergency response and institutional order. Nevertheless, in response to CEACR observations, it introduced limited reforms to improve communication between staff and leadership, especially through Regional Correctional Headquarters. These efforts included addressing staff training, workload reduction, conditions in women's facilities, and offering mental health support. Despite these initiatives, the Government continued to deny the right to organize for prison personnel, citing operational imperatives and legal interpretations.
403. The Committee takes due note of the arguments provided both by the Government and the complainant, which again highlight the divergent views. In these circumstances, the Committee expects that the Government and the social partners concerned will include this issue and confront

their opinions within the framework of the mutually agreed dialogue mechanism on the autonomous labour–employer relations system and that they will engage in a meaningful debate with a view to achieving consensus on recognizing the right to organize and collective bargaining for firefighters and for prison officers other than those with the specific duties of the judicial police.

Information on lawsuits

- 404.** *The Committee recalls its previous request to the Government and the complainant organizations to keep it informed of the results of several lawsuits filed by workers' unions of national university corporations opposing unilateral reduction of wages in state-run universities on the grounds that a salary cut that was not based on the NPA recommendation constituted a violation of article 28 of the Constitution that guarantees the basic labour rights of workers to organize, bargain and act collectively. The Committee recalls that in the first case considered by the Tokyo High Court in December 2016, the salary cut was found constitutional. This decision became final in October 2017 after the Supreme Court dismissed the appeal from the complainant. Recalling that there were legal actions still ongoing concerning seven state universities, the Committee requests the Government and the complainant organizations to keep it informed of the results in these remaining cases.*
- 405.** *In conclusion, the Committee regrets that the issue of granting basic labour rights to public service employees, which gave rise to the complaints in 2002, remains unresolved despite the time that has elapsed since the Committee's first examination and repeated recommendations. Given the history of the cases and the differing views on this issue, the Committee believes that the pending matters linked to it require sustained dialogue between the Government and the social partners. While welcoming the Government's renewed commitment to enter discussion on these matters with the relevant ministries and institutions and representative organizations concerned, the Committee urges the Government to engage meaningfully and without further delay to ensure that public service employees enjoy fully their basic labour rights, and to adopt the necessary legislative amendments to this end. Observing however that this process is being followed within the framework of the regular supervisory mechanism, the Committee refers this legislative aspect to the CEACR.*

The Committee's recommendations

- 406.** **In the light of its foregoing conclusions, the Committee invites the Governing Body to approve the following recommendations:**
- (a) The Committee requests the Government to continue providing information on the functioning of the National Personnel Authority (NPA) recommendation system as a compensatory measure, until the basic labour rights are granted to public service employees.**
 - (b) The Committee urges the Government to engage meaningful consultation with the social partners concerned in search of the most appropriate mechanism to debate and make progress on the autonomous labour–employer relations system, with a view to ensuring basic labour rights for public service employees. The Committee expects that progress will be made in relation to:**
 - (i) ensuring that public employees not engaged in the administration of the State have the right to bargain collectively and to conclude collective agreements, and that those employees whose bargaining rights can be legitimately restricted enjoy adequate compensatory procedures;**
 - (ii) ensuring that those public employees who are not exercising authority in the name of the State can enjoy the right to strike under national law, in conformity with freedom of association, and that union members and officials**

who exercise legitimately this right are not subject to heavy civil or criminal penalties; and

- (iii) determining the scope of bargaining matters in the public service.
- (c) The Committee expects that the Government and the social partners concerned will include the issue of granting the right to organize and collective bargaining to firefighting personnel and prison staff within the framework of the mutually agreed dialogue mechanism on the autonomous labour-employer relations system and that they will engage in a meaningful debate with a view to achieving consensus on recognizing the right to organize and collective bargaining for firefighters and for prison officers other than those with the specific duties of the judicial police.
- (d) The Committee requests the Government and the complainant organizations to keep it informed of the results of the remaining lawsuits filed by a number of workers' unions of national university corporations opposing unilateral reduction of wages.
- (e) The Committee regrets that the issue of granting basic labour rights to public service employees remains unresolved, despite its repeated recommendations since 2002. While welcoming the Government's renewed commitment to enter discussion on these matters with the relevant ministries and institutions and the representative organizations concerned, the Committee urges the Government to engage meaningfully and without further delay to ensure that public service employees enjoy fully their basic labour rights, and to adopt the necessary legislative amendments to this end. Observing however that this process is being followed within the framework of the regular supervisory mechanism, the Committee refers this legislative aspect to the Committee of Experts on the Application of Conventions and Recommendations.

Case No. 3337

Interim report

**Complaint against the Government of Jordan
presented by
the Jordanian Federation of the Independent Trade Unions (JFITU)**

Allegations: The complainant organization alleges that the Labour Code restricts the right of workers to freely organize and bargain collectively. They further allege acts of anti-union discrimination, interference and retaliation by the Government against independent trade unions

- 407.** The Committee last examined this case (submitted in 2018) at its June 2023 meeting and on that occasion presented an interim report to the Governing Body [see 403rd Report, approved by the Governing Body at its 348th Session (June 2023), paras 305–345].¹¹
- 408.** The Government provided its observations in communications dated 29 August 2023 and 15 April 2025.
- 409.** Jordan has ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). It has not ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

A. Previous examination of the case

- 410.** At its June 2023 meeting, the Committee made the following recommendations [see 403rd Report, para. 345]:
- (a) The Committee reiterates its request to the Government to amend section 98(e) of the Labour Code so as to eliminate the restriction placed on the organizing rights of migrant workers and to ensure that foreign workers may be elected to trade union office, at least after a reasonable residence period. It requests the Government to keep it informed of all measures taken in this respect.
 - (b) The Committee requests once again the Government to take without delay the necessary measures, in consultation with all social partners concerned, to amend section 98(f) of the Labour Code so as to ensure that minors who have reached the legal age for employment, whether as workers or trainees, are fully protected in their exercise of the freedom of association rights. It requests the Government to provide information on measures contemplated or adopted in this respect.
 - (c) The Committee urges the Government to take meaningful steps, including specific legal provisions, to ensure the right to organize and to bargain collectively in the public sector, including in the public service. In the meantime, the Committee requests the Government

¹¹ [Link to previous examination.](#)

to provide a copy of any special law enabling public employees in a ministry, department, body or government institution to establish a union for the defence of their interests.

- (d) The Committee once again urges the Government to amend without delay section 116 of the Labour Code (conferring to the Ministry of Labour the power to dissolve and replace the administrative body of a representative organization) in consultation with the social partners and to keep it informed of the measures taken in this regard.
- (e) The Committee is bound to urge once again the Government to take swift measures to investigate the alleged acts of discrimination against trade unionists and to provide without delay information on their outcome, including on the status of the union leaders mentioned.
- (f) The Committee must reiterate its long-standing request for measures to amend the Labour Code so as to ensure that more than one trade union organization per sector or industry can be established, if the workers so desire. Similarly, the Committee further requests for measures to amend the Labour Code to ensure that workers in all sectors of the economy can exercise their right to organize and freely bargain collectively through the organization of their choosing. It urges once again the Government to take the necessary steps to ensure that the independent trade unions may be recognized without delay so that they may carry out their activities without interference.
- (g) The Committee requests the Government to indicate whether the determination of the new fines imposed on employers in case of breach of labour law included in the bill amending the Labour Code was made in consultation with the social partners.
- (h) The Committee must express its firm expectation that the Government will take swift action in relation to the recommendations it is bound to repeat. The Committee expects the Government to report on meaningful progress, as this necessarily has an impact on the industrial relations and the exercise of freedom of association rights of all workers in the country.
- (i) The Committee invites the Government to continue to avail itself of the technical assistance of the Office in respect of the remaining matters raised in this case.

B. The Government's reply

- 411.** In its communications dated 29 August 2023 and 15 April 2025, the Government provides the following information in reply to certain recommendations of the Committee.
- 412.** Concerning the Committee's request to amend section 98(e) of the Labour Code so as to eliminate the restriction placed on the organizing rights of foreign workers, the Government reiterates that pursuant to sections 98(e) and (f) of the Labour Code, while non-Jordanian workers may join trade unions, they do not have the right to establish trade unions, and that amending section 98(e) would lead to a violation of the Constitution, which grants the right to establish trade unions only to Jordanians. Regarding the Committee's request to ensure that foreign workers may be elected to trade union office, the Government reiterates that the Labour Code grants trade unions the freedom to conduct their internal affairs independently, and that eligibility to trade unions' administrative bodies or other committees are regulated in the union's by-laws. It adds that the Ministry of Labour only assumes a regulatory and supervisory role.
- 413.** In relation to the Committee's request to amend section 98(f) of the Labour Code so as to ensure that minors who have reached the legal age for employment, whether as workers or trainees, are fully protected in their exercise of their freedom of association rights (recommendation (b)), the Government reiterates its previous observations that the Civil Code provides that a person must have reached the age of legal majority, 18 years of age, in order to exercise his or her civil rights and perform acts with legal effect, such as the establishment

and membership of trade unions, conducting negotiations, concluding collective agreements, participating in elections or decisions of the administrative bodies, and approving the union's budget. The Government reiterates that accordingly, the requirement in section 98 of the Labour Code for the founder or the member of a union to have reached the age of 18 years, is a protection of the will of the worker restricted to the age of majority to ensure the lawfulness of all acts related to his or her right to organize trade unions and collective bargaining. The Government also reiterates that this is in line with the position of the Jordan Chamber of Commerce which was consulted on the possibility of juveniles to establish and join trade unions. It adds that amending section 98(f) of the Labour Code would therefore violate the relevant provisions in the Civil Code.

- 414.** Concerning the need to take meaningful steps to ensure the right to organize and to bargain collectively in the public sector, including in the public service (recommendation (c)), the Government reiterates its previous indications that articles 16(2) and 23(f) of the Constitution of Jordan guarantee the right to organize legal associations to Jordanian workers in both the public and the private sectors, within the limits of the law. The Government also reiterates that consequently, the Jordanian Civil Service Law (No. 9 of 2020) governing workers in the public sector does not prohibit any public sector worker in certain professions from joining professional unions such as the Medical Association, the Engineers' Association, the Teachers' Association, the Dental Association, the Pharmacists' Association and the Agricultural Engineers' Association, and that each professional association is formed and functions according to its own by-law. The Government further reiterates that, according to the Interpretative Decision (No. 6 of 2013) of the High Council for the Interpretation of the Constitution, public employees in any ministry, department, body or government institution may establish a union for the defence of their interests, provided that these professional unions are established pursuant to the provisions of special laws, as in the case of the Jordanian Teachers' Association, established under the Jordanian Teachers' Association Act.
- 415.** Regarding the Committee's call to amend section 116 of the Labour Code (recommendation (d)), the Government reiterates its previous observation that the purpose of this provision is to address disputes that may occur within trade unions, a number of which have led to damage to the public interest and the interests of their members. The Government also reiterates that section 116 of the Labour Code, as amended, confers the power to the Minister to dissolve an administrative body of a trade union, or an employer's organization (and not the union itself), if it violates provisions of the Code, regulations issued pursuant to it, or if the by-laws of the organization are in violation of the legislation in force. It further reiterates that the Minister's decision is subject to appeal before court. It adds, as it has done in its previous observations, that pursuant to the same provision, in consultation with the General Federation of Jordanian Trade Unions (GFJTU), the Minister appoints an interim administrative body from the General Assembly to administer the union and to hold elections for a new administrative body within a maximum period of six months after the dissolution.
- 416.** As regards recommendation (e) to take swift measures to investigate the alleged acts of discrimination against trade unionists and to provide without delay information on their outcome, including on the status of the union leaders mentioned, the Government reiterates that no case of discrimination against trade unionists has been recorded.
- 417.** With regard to the request to amend the Labour Code to enable the establishment of more than one trade union organization per sector or industry, and to ensure the right of workers in all sectors of the economy to organize and freely bargain collectively (recommendation (f)), the Government reiterates its previous observation that in 2019, section 98(d) of the Labour Code (Act No.14 of 2019) was introduced to promote by Ministerial decision the expansion of

occupations for which trade unions may be established, and that this had resulted in the issuing of the 2022 Decision of the Minister of Labour concerning the categories of industries and economic activities in which workers may establish unions. With regard to the recognition of independent trade unions, the Government reiterates that the establishment, registration, functioning and dissolution of trade unions and employers' organizations are regulated by the Labour Code and that independent unions and the Jordanian Federation of the Independent Trade Unions (JFITU) have not complied with the procedures therein. It reiterates therefore, that their legal existence cannot be recognized, and they do not represent workers and cannot defend their interests. The Government also reiterates that this situation prompted the Ministry of Labour, in order to protect the rights of workers joining these independent unions, to send an official note to all ministries and state-owned companies informing them that the entity known as the JFITU is not a recognized union, with a view to strengthening the rule of law, identifying the authorities with which they can deal officially and enabling them to distinguish in their dealings with unions between those that are legally registered and those that are not.

- 418.** In relation to recommendation (g) concerning the consultation of the social partners as regards the determination of new fines in the amended Labour Code imposed on employers in case of breach of labour law (including acts of interference), the Government indicates that, in compliance with the Code of Practice for Policy Governance and Legislative Instruments issued by the Council of Ministers in its Decision No. 7111 of 8 April 2018, when any legislation is introduced or amended, a list of consultations is drawn up, including employers' representatives, such as the Jordan Chamber of Commerce and the Jordan Chamber of Industry and workers' representatives, such as the GFJTU. Consultations are also held with civil society organizations.
- 419.** Finally, the Government reiterates that it is not reluctant to availing itself of technical assistance of the Office in any of the areas as to be agreed with the Ministry of Labour.

C. The Committee's conclusions

- 420.** *The Committee recalls that in this case, the Jordanian Federation of Independent Trade Unions (JFITU) alleges that the Labour Code restricts the right of workers to freely organize and bargain collectively. The JFITU further alleges acts of anti-union discrimination, interference and retaliation by the Government against independent trade unions in practice.*
- 421.** *The Committee notes that the Government reiterates its previous observations in relation to the Committee's recommendation regarding the restriction placed on the rights of migrant workers to form a union, namely that the restrictions are limited to establishing trade unions, and that amending section 98(e) would lead to a violation of the Constitution. The Committee also notes that the Government reiterates its previous indications in relation to the right of foreign workers to be elected to trade union office, namely that trade unions enjoy the freedom to conduct their internal affairs, which includes regulating the eligibility of members to trade unions' administrative bodies or other committees in their by-laws.*
- 422.** *It therefore urges the Government to indicate the steps taken to amend section 98(e) of the Labour Code so as to eliminate the restriction placed on the organizing rights of migrant workers and to ensure that foreign workers may be elected to trade union office, at least after a reasonable residence period.*
- 423.** *The Committee recalls its previous recommendation to amend section 98(f) of the Labour Code so as to ensure that minors who have reached the legal age for employment can fully exercise their freedom of association rights. Noting that the Government reiterates its previous position in this*

respect which touches upon the question of legal liability for holding trade union office or being a founder of a trade union, the Committee recalls that its request concerns section 98(f) that requires workers to be at least 18 years old in order to simply become a member of a union while they may legally perform work as from 16.

424. The Committee therefore urges the Government to take without delay the necessary measures, in consultation with all social partners concerned, to amend section 98(f) of the Labour Code so as to ensure that minors who are working or trainees as from the age of 16 years (the legal age for employment) may become members of trade unions and are fully protected in their exercise of their freedom of association rights. It requests the Government to provide information on measures contemplated or adopted in this respect.
425. In relation to its request for information regarding the right to organize and to bargain collectively in the public sector, including in the public service, the Committee notes the Government's reiterated indication that articles 16(2) and 23(f) of the Constitution of Jordan guarantee the right to organize legal associations to Jordanian workers in both the public and the private sectors, within the limits of the law.
426. The Committee further notes the Government's reiteration that public employees in any ministry, department, body or government institution may establish a union for the defence of their interests, provided that these professional unions are established pursuant to the provisions of special laws. It notes with regret however, that the Government has not provided a copy of any special law ensuring the freedom of association rights of these workers, as requested.
427. Concerning the right to join trade unions, the Committee also notes the reiterated observations of the Government that the Jordanian Civil Service Law (No. 9 of 2020) governing workers in the public sector does not prohibit any public sector worker from joining professional unions, such as the Medical Association, the Engineers' Association, the Teachers' Union, the Dental Association, the Pharmacists' Association and the Agricultural Engineers' Association, which are formed and function according to their respective statutes.
428. The Committee is, however, bound to recall that public servants, like all other workers, without distinction whatsoever, have the right to establish and join organizations of their own choosing, without previous authorization, for the promotion and defence of their occupational interests [see **Compilation of decisions of the Committee on Freedom of Association**, sixth edition, 2018, para. 336]. Therefore, the Committee once again urges the Government to take meaningful steps, including specific legal provisions, to ensure the right to organize and to bargain collectively in the public sector, including in the public service, and to transmit a copy of any special law that enables public employees in a ministry, department, body or government institution to establish a union for the defence of their interests.
429. Concerning the Committee's recommendation to amend section 116 of the Labour Code conferring to the Ministry of Labour the power to dissolve and replace the administrative body of a representative organization, the Committee notes that the Government reiterates that the purpose of this provision is to address disputes that may occur within trade unions, a number of which have led to damage to the public interest and the interests of their members. While the Government further emphasizes that the Minister's decision is subject to appeal before court and that, pursuant to the same provision, in consultation with the General Federation of Jordanian Trade Unions (GFJTU), the Minister appoints an interim administrative body from the General Assembly to administer the union and to hold elections of a new administrative body within a defined period of time, the Committee observes that this process would appear to confirm the interference in a trade union's administration, including by a monopoly structure, even prior to any final decision by a court of law and in line with freedom of association.

430. In the absence of any new information on the steps taken to amend the relevant legislation, the Committee is bound to recall once again that the removal by the Government of trade union leaders from office is a serious infringement of the free exercise of trade union rights [see **Compilation**, para. 654]. The Committee, therefore, once again urges the Government to amend without delay section 116 of the Labour Code in consultation with the social partners and to keep it informed of the measures taken in this regard.
431. With regard to its long-standing request to amend the Labour Code to enable the establishment of more than one trade union organization per sector or industry, and to ensure the right of workers in all sectors of the economy to organize and freely bargain collectively, the Committee notes that the Government reiterates its previous observation that section 98(d) of the Labour Code (Act No. 14 of 2019) was introduced to promote by Ministerial decision the expansion of occupations for which trade unions may be established and that the 2022 Decision of the Minister of Labour sets out the categories of industries and economic activities in which workers may establish unions.
432. The Committee recalls that section 98(d) of the Labour Code continues to provide for restrictions on the number of recognized sectoral trade unions and the permission of only one union per sector. It also recalls that workers are therefore required to join one of the designated sectoral unions, limiting their ability to form and join unions of their own choosing, including independent trade unions.
433. In relation to the recognition of the independent trade unions so that they may carry out their activities without interference, the Committee notes with concern, that the Government has not provided the requested information on any measures taken in practice for their recognition (such as instructions given to the competent authorities as regards the right of independent trade unions to freedom of assembly in the context of previous allegations concerning the cancellation of public meetings), but on the contrary reiterates its previous statements that independent unions or the JFITU are entities that have not complied with the procedures set out in the Labour Code for their establishment and operation, and that therefore, their legal existence cannot be recognized, and they do not represent workers and cannot defend their interests. It notes that the Government reiterates that the Ministry of Labour sent an official note to all ministries and state-owned companies informing them that the entity known as the JFITU is not a recognized union in order to protect the rights of workers joining these independent unions.
434. In view of the above, the Committee is bound to recall its previous conclusions that the principle of trade union pluralism is grounded in the right of workers to come together and form organizations of their own choosing, independently and with structures which permit their members to elect their own officers, draw up and adopt their by-laws, organize their administration and activities and formulate their programmes without interference from the public authorities and in the defence of workers interests. It also recalls that while it is generally to the advantage of workers and employers to avoid the proliferation of competing organizations, a monopoly situation imposed by law is at variance with the principle of free choice of workers' and employers' organizations [see **Compilation**, paras 483 and 486]. The Committee therefore reiterates its long-standing request for measures to amend the Labour Code so as to ensure that more than one trade union organization per sector or industry can be established, if the workers so desire, and to amend the Labour Code to ensure that workers in all sectors of the economy can exercise their right to organize and freely bargain collectively through the organization of their choosing. The Committee is also bound to reiterate its recommendation to ensure that the independent trade unions may be recognized without delay so that they may carry out their activities without interference.
435. The Committee recalls its previous call for investigation into allegations of the following acts of anti-union discrimination, interference and retaliation against independent trade unions: (i) dismissal (Mr Khaled Hasan Ali, worker at the water company); (ii) suspension (Mr Tayel Al

Khamayseh, ex-President of the Independent Union of Phosphate Mine Workers); (iii) pressure to resign from the job (President and Secretary of the Chemical Industries' Independent Union and Mr Khalil Butros Wahhab, Vice-President of the Independent Trade Union of Civil Aviation Workers); (iv) deferral of promotion and withholding of wages (Mr Jalal El Harasees, President of the Independent Union of Jordan Electricity Workers), (v) transfer (Mr Mahmoud Shihada Al-Khateeb, President of the Independent Trade Union of Workers at the Jordan Water Company Miyahuna); and (vi) threats against company workers wishing to join the independent trade union and exerting pressure to sign pledges not to engage in trade union activities (President of the Independent Trade Union in the Pharmaceutical Industries and its board members, as well as at the water company). The Committee once again notes with deep concern that the Government merely reiterates that no case of discrimination against trade unionists has been recorded. Observing that the lack of recognition of any cases of discrimination may be linked to the non-recognition of the independent unions addressed above, the Committee is bound to urge once again the Government to take swift measures to investigate the above allegations and to provide without delay information on their outcome, including on the status of the union leaders mentioned.

- 436.** *Concerning the consultation of the social partners as regards the determination of new fines imposed on employers in case of breach of labour law, included in the bill amending the Labour Code, the Committee notes that the Government only provides information about the consultation process in relation to legislation in general. It notes that the Government does not provide any specific information in relation to the consultation of the social partners as regards the increased fines in section 139 of the Labour Code, as amended in 2023 (increase of the highest fines from 100 Jordanian dinars (about US\$140) to 1,000 Jordanian dinars (about US\$1,400)), and the consultation in relation to the question of whether the new fines would represent a sufficiently dissuasive sanction against acts of interference. Noting that this matter is being addressed by the Committee of Experts on the Application of Conventions and Recommendations (CEACR) within the framework of the application of Convention No. 98, the Committee transmits this aspect of the case to the CEACR.*
- 437.** *In conclusion, the Committee notes that the Government has not provided any new information on the matters under examination in this case, nor has it reported progress in implementing the Committee's previous recommendations. The Committee once again expresses its firm expectation that the Government will take swift action in relation to all of the Committee's previous recommendations that it is bound to repeat. The Committee firmly expects the Government to report on meaningful progress, as this necessarily has an impact on the industrial relations and on the exercise of freedom of association rights of all workers in the country.*
- 438.** *Taking note of the Government's statement that it is not reluctant to availing itself of the technical assistance of the Office in areas as to be agreed upon with the Ministry of Labour, and recalling the Government's previous statement that it was already benefiting from the collaboration with the ILO Office in Jordan and was in the process of enabling agricultural workers to engage in trade union activity, the Committee once again invites the Government to make use of this possibility to address the remaining and long-standing matters raised in this case. The Committee invites the Government to accept a direct contacts mission in light of the lack of progress in amending the legislation to address its recommendations.*

The Committee's recommendations

439. In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:

- (a) The Committee urges the Government to indicate the steps taken to amend section 98(e) of the Labour Code so as to eliminate the restriction placed on the organizing rights of migrant workers and to ensure that foreign workers may be elected to trade union office, at least after a reasonable residence period.
- (b) The Committee urges the Government to take without delay the necessary measures, in consultation with all social partners concerned, to amend section 98(f) of the Labour Code so as to ensure that minors who are working or trainees as from the age of 16 years (the legal age for employment), may become members of trade unions and are fully protected in their exercise of their freedom of association rights. It once again requests the Government to provide information on measures contemplated or adopted in this respect.
- (c) The Committee once again urges the Government to take meaningful steps, including specific legal provisions, to ensure the right to organize and to bargain collectively in the public sector, including in the public service, and to transmit a copy of any special law that enables public employees in a ministry, department, body or government institution to establish a union for the defence of their interests.
- (d) The Committee once again urges the Government to amend without delay section 116 of the Labour Code in consultation with the social partners and to keep it informed of the measures taken in this regard.
- (e) The Committee reiterates its long-standing request for measures to amend the Labour Code so as to ensure that more than one trade union organization per sector or industry can be established, if the workers so desire, and to amend the Labour Code to ensure that workers in all sectors of the economy can exercise their right to organize and freely bargain collectively through the organization of their choosing. The Committee is also bound to reiterate its recommendation to ensure that the independent trade unions may be recognized without delay so that they may carry out their activities without interference.
- (f) The Committee is bound to urge once again the Government to take swift measures to investigate the alleged acts of discrimination against trade unionists and to provide without delay information on their outcome, including on the status of the union leaders mentioned.
- (g) The Committee once again expresses its firm expectation that the Government will take swift action in relation to all of the Committee's previous recommendations that it is bound to repeat. The Committee firmly expects that the Government will report on meaningful progress, as this necessarily has an impact on the industrial relations and the exercise of freedom of association rights of all workers in the country.
- (h) The Committee once again invites the Government to make use of the possibility of availing itself of the technical assistance of the Office to address the remaining and long-standing matters raised in this case.

- (i) **The Committee invites the Government to accept a direct contacts mission in light of the lack of progress in amending the legislation to address its recommendations.**

Case No. 3405

Interim report

Complaint against Myanmar presented by

- the International Trade Union Confederation (ITUC) and
- Education International

Allegations: The complaint contains grave allegations of continuing attacks by the military authorities against trade unionists, workers and civil servants who are calling for the return to civilian rule following the coup d'état in Myanmar on 1 February 2021. The allegations include intimidation and threats against trade unionists, workers and civil servants to ensure their return to work and to renounce their participation in the Civil Disobedience Movement, suspension from posts and use of striker replacements, withdrawal of benefits and professional competency certificates, police lists of workers and trade unionists for arrest, imprisonment and detention and numerous deaths following interventions by the military and police forces in peaceful protests, including the torture and killing of union leaders. The allegations also concern anti-union attacks and attempts at dismantling the independent trade union movement in the country

- 440.** The Committee last examined this case (submitted in March 2021) at its May-June 2024 meeting, when it presented an interim report to the Governing Body [see 407th Report, paras 268–311, approved by the Governing Body at its 351st Session].¹²
- 441.** The International Trade Union Confederation (ITUC) provided additional allegations in communications dated 24 February and 7 May 2025.
- 442.** The State Administration Council (SAC) Ministry of Labour and the Permanent Mission in Geneva provided a reply in communications dated 6 March, 15 April and 28 May 2025.
- 443.** Myanmar has ratified Convention No. 87 but has not ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

¹² [Link to previous examination](#)

A. Previous examination of the case

444. At its May–June 2024 meeting, the Committee made the following recommendations [see 407th Report, para. 311]:

- (a) The Committee urges the military authorities to desist from any and all acts of retaliation against any individual or organization which provided information to the Commission of Inquiry or continues to engage in the ILO procedures ensuring follow-up to the Commission's recommendations.
- (b) The Committee recalls its previous recommendation that steps be taken without delay to ensure the immediate release of trade unionists and workers arrested or detained for action in relation to the restoration of their trade union rights and democracy in the country, as well as the call on the military authorities to ensure the release of Thet Hnin Aung, and requests to be informed of all steps taken to this end and a copy of the judgment against Thet Hnin Aung.
- (c) The Committee once again urges the responsible military authorities to cease immediately the ongoing use of violence against workers and trade unionists participating in peaceful protesters and to have independent investigations carried out into the allegations of violence against them workers and trade unionists with a view to determining responsibilities and punishing the perpetrators. The Committee requests detailed information on the steps taken in this regard and the outcome of the investigations. The Committee, further noting the issue of revocation of citizenship of trade unionists raised in the conclusions of the Committee on the Application of Standards and the Commission of Inquiry recommendations, calls on the military authorities to reinstate citizenship to the trade unionists and workers concerned and to indicate the steps taken in this regard.
- (d) The Committee once again firmly urges the repeal and amendment of section 505-A of the Penal Code, section 124 of the Criminal Code, section 38(c) of the Electronic Transaction Act (ETA), the withdrawal of the surveillance powers that were restored to the wards and villages under the amended Ward or Village-tract Administration Law and the withdrawal of the declaration of the trade unions declared as unlawful so as to ensure full respect for the basic civil liberties necessary for the exercise of freedom of association so that workers' and employers' organizations can carry out their activities and functions without threat of intimidation or harm and in a climate of complete security.
- (e) The Committee calls on the responsible authorities to continue to take steps to ensure the reinstatement of all remaining civil servants, healthcare workers and teachers dismissed or suspended for their participation in the CDM and to restore any benefits that may have been withdrawn.
- (f) Recalling the importance of ensuring a climate for the full exercise of freedom of association for all workers in the public and private sectors, the Committee once again calls on Myanmar to take the appropriate steps in this regard and to keep it informed of the specific measures taken.
- (g) The Committee urges the military authorities to fully recognize the critical importance of ensuring these rights and freedoms to the workers and employers of the country as a necessary prerequisite for the restoration of democracy and the exercise of trade union activities and to take all necessary steps to create a climate where freedom of association can be fully and meaningfully restored in Myanmar.
- (h) Noting with deep regret the failure of the military authorities to implement the recommendations of the Commission of Inquiry and of this Committee and the continuing situation of extreme violence and repression in the country, the Committee draws the Governing Body's attention to the extreme seriousness and urgency of this case so that it may consider any further measures to secure compliance therewith.

B. The complainant's new allegations

- 445.** In its communications dated 24 February and 7 May 2025, the ITUC submits supplemental information on the situation of freedom of association in the country, alleging a deteriorating environment for the exercise of labour rights and continued escalation of violence. The ITUC alleges that the military has taken no steps to implement the recommendations of the Commission of Inquiry, the resolution of the International Labour Conference or the decisions of the Governing Body and has instead resorted to the use of more lethal weapons and indiscriminate killing of civilians, including workers and unionists. It claims that the environment has become extremely dangerous for trade unionists and labour rights activists who are labelled as supporters of terrorism, the People's Defence Force (PDF) or foreign agents. In the complainant's view, this amounts to retaliation for their calling for a restoration of democracy and an attack on their freedom of expression. The complainant also reports increased restrictions on the freedom of movement of individuals within the conscription age range, increasing practices of forced labour and human trafficking, the continued use of martial law, the prosecution and imprisonment of several journalists, the raiding of the offices of a welfare association, an increase in the use of torture against detained human rights defenders and trade unionists, sexual violence against prisoners in interrogation centres, prisons and other detention sites, as well as continued criminalization of civil liberties. In this regard, the complainant denounces the arrest of Naing Lin Aung, a youth activist who was organizing demonstrations calling for the adoption of measures under article 33 of the ILO Constitution for the implementation of the Commission of Inquiry recommendations; he remains incommunicado since his arrest at the end of March 2025.
- 446.** The complainant further reports extreme cruelty and grave negligence by the SAC in responding to the earthquake that hit Myanmar at the end of March 2025, alleging continuous, deliberate and indiscriminate aerial bombings of civilian areas, despite a military-declared ceasefire, as well as systematic obstruction of rescues, including through the imposition of additional restrictions on freedom of expression, imposition of curfews, heightened security checks and confiscation of aid material. There were instances where trade unionists attempting to join the rescue efforts were stopped by the military and asked whether they were supporters of the armed resistance groups or the Civil Disobedience Movement (CDM). According to the complainant, this situation has caused imminent threat to the lives and activities of the remaining independent unionists, human rights defenders and humanitarian actors residing in the attacked regions and has accelerated the risks and challenges for trade unions to provide services and support their members, including with regard to serious labour rights violations at the workplace.
- 447.** In particular, the complainant alleges that the executive committee members of the Confederation of Trade Unions Myanmar (CTUM) remain under arrest warrants with their passports or citizenship voided. Out of the 151 CTUM members who had been arrested for carrying out union activities or taking part in public protests, 65 remain in detention and 2 died, including Kaung Khant Kyaw, member of the Hinthada Teachers' Union, who was executed. Kyaw Naing Oo and Paing Thae Oo from the Taungoo Teachers' Union in Bago region were sentenced to life imprisonment for having allegedly joined the PDFs. A further 8 unionists detained at the Oh Bo prison in Mandalay are reported to have been killed during the March 2025 earthquake. The complainant further alleges that Thet Hnin Aung, General Secretary of the Myanmar Industry, Crafts and Services Trade Union Federation (MICS-TUsF), who had been sentenced to seven years' imprisonment with hard labour on fabricated charges of terrorism, after having previously served two years in prison, has been tortured in detention and locked up incommunicado. After he disclosed the prison conditions to the International Committee of

the Red Cross (ICRC) in December 2024, he was further beaten and confined to an extremely small cell. It is alleged that following visits by the EU delegation and the ILO Liaison Officer, he has not been allowed further visits from the outside world. Khine Thinzar Aye, the CTUM communications chief, also spoke about the torture and sexual abuse to which she was subjected during military interrogation, after she was released from prison in June 2024, and she has now fled to ethnic-controlled areas to escape military surveillance and to resume, as much as possible, her trade union work (a document containing details on the arrested and detained unionists was submitted to the Committee but was requested to be kept confidential to protect the concerned individuals from retaliation).

- 448.** The complainant further alleges a systematic smearing campaign against the CTUM and its leadership, including against those seeking refuge outside the country, as well as its affiliates, and considers that this amounts to an anti-union attack ultimately aimed at taking over the CTUM by cloning it into a “yellow” union and an agency of the State. It states that, in February 2025, the military authorities supported the establishment by former leaders of the CTUM and of the Industrial Workers Federation of Myanmar (IWFM) of a parallel trade union confederation with the same name as the CTUM in Burmese, so as to hold trade union meetings and spread false information about CTUM and IWFM leaders. At the beginning of February, the former Vice-President of the CTUM who had resigned immediately after the military coup, convened a meeting disguised as a fake CTUM congress and announced 5 new CTUM executive committee members and 23 new central committee members from a pre-determined list of individuals who had no knowledge about it (the invitation to the congress, the list of individuals and a photograph of the meeting were provided by the complainant). Similarly, in January 2025, the former president of the Mining Workers Federation of Myanmar (MWFM), affiliated to the IWFM, purported to convene a labour law training workshop in Yangon and converted it into a fake congress, in contravention of the union’s constitution and in the absence of a decision to this effect from the IWFM leadership, with a staged election of 15 pro-military individuals to replace the incumbent IWFM central committee members. According to the complainant, workers were forced to attend these meetings under pressure from their employers following a request to this effect from the SAC Ministry of Labour and were given “ballots” to “re-elect” trade union executives under military coercion and surveillance. They were thus forced into organizations under the control of the military or of businesses which are themselves under the influence of the military. The complainant adds in this regard that in more than 360 complaints of labour rights violations that occurred in garment factories between January and December 2024 and were received by the IWFM, their members were unable to be represented by a trade union of their choice (a detailed list of the incidents was provided, disaggregated by factory and country of brand).
- 449.** It is further alleged that martial law remains in place and continues to restrict civil liberties and labour rights. In addition, since May 2024, the Ministry of Transport and Communications has blocked the use of personal data protection and social media applications by individuals, including virtual private networks (VPNs), Signal, Facebook, X, Instagram and WhatsApp. A new law, the Cybersecurity Law No. 1/2025, which came into force in January 2025, puts into effect the ban on unapproved usage and more stringent licensing measures and also stipulates penalties of up to six months’ imprisonment for the use of VPNs and up to two years for acts of transmission of unwanted and unsolicited messages, emails or data via a network, including reading, sorting and sharing articles from media outlets or groups banned or labelled as terrorist. Digital service and platform providers are required to keep the personal data of its customers and share them with the authorities upon request. According to the complainant, the law undermines freedom of expression and seriously affects the communications, service provisions and activities of trade unions within and outside Myanmar, in particular since trade

unionists that have rejected the military coup and refused to cooperate with the military are labelled as part of the PDF. These unions nevertheless continue to operate underground and to monitor labour rights violations.

C. The reply from Myanmar

- 450.** In communications dated 6 March, 15 April and 28 May 2025, the Permanent Mission transmits information from the SAC Ministry of Labour in response to the additional allegations from the complainant and the Committee's previous recommendations. It is stated that the Ministry of Labour is committed to upholding and adhering to freedom of association, acts as the registrar under the Labour Organization Law, 2011 and has not prohibited or hindered activities of labour organizations. In line with this law, the right to form a labour organization, the right to join as a member, the right to hold independent funds, the right to freely draft its own organizational rules, the right to freely elect executive members and matters relating to removal from office and resignation can be carried out in accordance with the law and the constitution of the relevant labour organization. Issues arising between members of a labour organization can be resolved in accordance with the law. Between October 2024 and March 2025, 64 new workers' organizations were formed, showing that Myanmar practises freedom of association and does not prohibit workers' organizations. To ensure that workers fully enjoy their labour rights, they can file complaints with the respective labour offices and, in addition, the Ministry of Labour actively monitors labour-related demands on social media and dispatches teams to conduct field investigations and provide timely resolution. In the post-earthquake situation, the Ministry of Labour engaged in verification of safety of factories and arranged for workers to be transferred where necessary and for those affected by factory closure to receive financial benefits.
- 451.** It is further indicated, concerning action taken against individuals for allegedly exercising labour rights and engaging in activities for the restoration of democracy, including peaceful demonstrations, that no union member has been arrested, had cases filed against them or subjected to violence for exercising their labour rights in accordance with the law. Actions have only been taken against individuals cooperating with armed organizations, carrying out destructive activities and undermining national stability, which is unrelated to their labour activities. Similarly, only organizations which are not registered in accordance with the law are declared illegal. Civil servants removed from their positions since February 2021 in accordance with civil service regulations for unauthorized absence, including desertion from civil service due to being threatened by terrorist groups or subjected to criticism on social media, can report to the relevant ministry; 7,904 such civil servants have already been reappointed to their positions. Furthermore, while Myanmar is currently under a state of emergency and necessary amendments have been made to certain laws for security purposes, labour related laws have not been amended.
- 452.** With regard to the status of the CTUM, it is indicated that the organization was lawfully registered in 2015 and its executive committee composed of 29 members was elected in February 2020; its term expired in February 2022. Among the total of 3,116 organizations that received registration certificates since 2011, the only one which was registered at the highest level as a Myanmar labour confederation was the CTUM. However, it suspended its participation in tripartite mechanisms, issued statements of support to the National Unity Government, which had been declared a terrorist group, and some of its leaders, including the President, have not participated in labour matters since February 2021. This shows that they have acted against ILO principles and have deviated from their intended purpose by not carrying out organizational affairs of the labour organization despite holding a registration

certificate. Furthermore, the President, Treasurer and Secretary live illegally abroad and have not provided an account of organizational assets and funds, which were requested by CTUM members in the country. These members reported that the organization lacked leadership, its structure collapsed and its duties could therefore not be carried out. The CTUM as such, has not been dissolved, but since the CTUM lacked effective leadership and as some of its leaders were involved under section 124-A of the Penal Code, and to facilitate continued resolution of the organization's property and financial matters raised by the workers, the remaining CTUM leaders within the country convened a congress on 6 February 2025, during which a central committee and an executive committee were elected. The formation and election of the new CTUM leadership was conducted by workers through a free and fair election, in line with the Labour Organization Law and the organization's constitution. The CTUM, with its newly elected executive members, is therefore not a parallel organization but rather the same organization with the vacant executive committee members replaced. On 10 February 2025, the executive committee reported that it was carrying out the duties of the organization.

453. With regard to the situation of the MICS-TUsF General Secretary, in response to the ILO's request to meet with him, the Ministry of Labour obtained permission from the relevant authorities and facilitated a meeting with the Liaison Officer on 25 February 2025. He was also visited by the Ambassador of the European Union in January 2025, has access to adequate medical care and also received 11 family visits up to November 2024.
454. Concerning other individuals mentioned by the ITUC, the reply from the military authorities confirms that unionists Kyaw Naing Oo and Paing Thae Oo are serving a prison sentence based on charges under section 54 of the Counter-Terrorism Law and that Khine Thinzar Aye, the CTUM communications chief, was sentenced to three years of imprisonment for intending to cause fear, spreading false information and inciting to commit crime; she was released in April 2024 upon completion of her sentence. According to the military authorities, there is no record of unionist Kaung Khant Kyaw being sentenced to death. Details are also provided on the sentences against several journalists who were charged under the Counter-Terrorism Law for gathering military information from terrorist groups and disseminating false news.
455. Detailed information is further provided on steps taken to eliminate forced labour, including the applicable legislation and regulations prohibiting forced labour, awareness-raising programmes and training seminars on forced labour and human trafficking, setting-up of billboards and distribution of pamphlets, the functioning of the National Complaints Mechanism, preventive measures to verify the age of military recruits to avoid underage recruitment and prison visits by the ICRC.
456. It is also reported that while some so-called workers who are self-exiled demand the imposition of measures under article 33 of the ILO Constitution, real workers living in Myanmar are opposed to this and show it by way of demonstrations. Nai Lin Aung, the youth activist mentioned by the ITUC, was charged under section 505-A of the Penal Code for his unlawful activities and is on trial at the Insein Township Court. The reply reiterates the invitation previously extended to the ILO to conduct a high-level visit to the country to ensure that the ILO is aware of the situation on the ground regarding Conventions Nos 87 and the Forced Labour Convention, 1930 (No. 29).

D. The Committee's conclusions

457. *The Committee recalls that the serious allegations in this case concern continuing attacks by the military authorities against trade unionists, workers and civil servants calling for the return to civilian rule following the coup d'état in Myanmar on 1 February 2021. The grave allegations include*

killing, torture and other acts of brutality, numerous arrests, imprisonment, detention, intimidation and threats against workers and trade unionists who oppose the military regime, including for participation in peaceful protests, and retaliation through dismissals, suspensions, use of striker replacements and withdrawal of benefits. The allegations also refer to serious restrictions on the basic civil liberties of trade unionists and continued attempts by the military authorities to discredit and dismantle independent trade unions.

- 458.** *The Committee further recalls from its previous examination of the case that the Commission of Inquiry appointed by the Governing Body to examine the non-observance by Myanmar of Conventions Nos 87 and 29 established, in its August 2023 report, that, in the light of the gravity of the issues raised, the situation and the progress achieved on its recommendations should be the subject of active supervision by the ILO supervisory bodies concerned. The Committee recalls in this regard that a large part of the Commission's recommendations are relevant to the matters addressed in the case before it, namely, the call on the military authorities to: immediately cease all forms of violence, including gender-based violence, torture and other inhumane treatment against trade union leaders and members and other persons in relation to the exercise of legitimate workers' or employers' activities; revoke all military orders or other measures, decreed since February 2021 and identified as restricting freedom of association and the basic civil liberties of trade unionists; revoke the withdrawal of citizenship and return travel documents to the trade union leaders and members concerned without delay; and end all forms of interference in the establishment, administration and functioning of trade unions at all levels, including interference in the election of trade union leadership, labour dispute resolution, conduct of collective action and administrative dissolution or suspension of trade unions. The Committee notes in this regard, the latest allegations submitted by the complainant which point to a failure by the military authorities to implement the recommendations of the Commission of Inquiry and observes that, at its 353rd Session (March 2025), the Governing Body noted with utmost concern the continued absence of any concrete action towards the implementation of the recommendations of the Commission of Inquiry and reiterated its previous decision to place on the agenda of the 113th Session (June 2025) of the International Labour Conference an item concerning measures under article 33 of the ILO Constitution to secure compliance by Myanmar with the recommendations of the Commission of Inquiry. The Committee also notes the views expressed by the SAC Ministry of Labour, according to which only some "so-called workers who are in self-exile" militate for the imposition of measures under article 33 while "real workers" within the country are opposed to it. The Committee observes with concern the complainant's allegations in this regard that a youth activist demonstrating for measures to be taken under article 33 of the ILO Constitution for the implementation of the Commission of Inquiry recommendations was arrested and remains incommunicado, and notes the reply from the military authorities confirming that he was charged under section 505-A of the Penal Code and is currently on trial. While the imposition of measures under article 33 of the ILO Constitution to secure compliance with the recommendations of the Commission of Inquiry falls within the competence of the International Labour Conference, it touches directly on the matters addressed in the case before it and the Committee will therefore follow the institutional developments in this regard.*
- 459.** *With regard to its own previous recommendations, in particular concerning the steps to ensure the immediate release of trade unionists and workers arrested or detained for action in relation to the restoration of their trade union rights and democracy in the country, including the General Secretary of the MICS-TUsF (recommendation (b)), the Committee notes the complainant's additional allegations that the arrest warrants against the CTUM leadership are still pending, that at least 65 trade unionists continue to be imprisoned, including 2 sentenced to life imprisonment, that there are reports of serious allegations of torture, sexual violence and other abuses in detention and that 8 unionists detained at the Oh Bo prison in Mandalay were killed during the March 2025 earthquake. In particular, the Committee notes with deep concern the allegations that Khine Thinzar Aye, the*

CTUM communications chief, was subjected to torture and sexual violence when interrogated by the military forces and that Thet Hnin Aung, the MICS-TUsF General Secretary, remains detained and has been tortured and locked up incommunicado, including as retaliation for having disclosed his prison conditions to the ICRC. The Committee regrets to observe that the only information provided by the military authorities in this regard refers to the release of Khine Thinzar Aye following the completion of her sentence in April 2024 and to prison visits conducted by the Ambassador of the European Union and the ILO Liaison Officer to the MICS-TUsF General Secretary in January and February 2025, respectively, which were facilitated by the SAC Ministry of Labour. The military authorities fail to provide a copy of the judgment sentencing the MICS-TUsF General Secretary, previously requested by the Committee, which could shed further light on the precise nature of his condemnation, as well as the circumstances of his trial. Neither do they address the extremely serious allegation that he has been mistreated, including as retaliation for exposing prison conditions or the allegation that 65 trade unionists continue to be detained and that prisoners, including trade unionists, report instances of torture and sexual violence. The military authorities simply indicate that the MICS-TUsF General Secretary has access to adequate medical care, confirm that Kyaw Naing Oo and Paing Thae Oo are currently serving their sentence and reiterate that no union member has been arrested or had cases filed against them for simply exercising labour rights or engaging in activities for the restoration of democracy.

460. Deeply concerned by these disturbing allegations and in the absence of any concrete or meaningful reply from the military authorities refuting them, the Committee must recall that the detention of trade unionists for reasons connected with their activities in defence of the interests of workers constitutes a serious interference with civil liberties in general and with trade union rights in particular. It is not possible for a stable industrial relations system to function harmoniously in the country as long as trade unionists are subject to arrests and detentions [see **Compilation of decisions of the Committee on Freedom of Association**, sixth edition, 2018, paras 123 and 127]. Furthermore, the Committee has considered that detained trade unionists, like all other persons, should enjoy the guarantees enunciated in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights according to which all persons deprived of their liberty must be treated with humanity and with respect for the inherent dignity of the human person [see **Compilation**, para. 110]. If allegations of torture or ill-treatment in detention are raised, concrete and appropriate measures should be taken to apply effective sanctions and give precise instructions to the relevant officials to ensure that no detainee is subjected to such treatment. In light of the above and further recalling the ILO Governing Body's repeated call on the military authorities to immediately end the arbitrary arrest, detention and torture of trade unionists in the exercise of their human rights and to ensure the immediate release of those detained, the Committee urges for steps to be taken without delay to ensure the immediate release of trade unionists and workers arrested or detained for action in relation to the restoration of their trade union rights and democracy in the country, including Thet Hnin Aung, the MICS-TUsF General Secretary, and Naing Lin Aung, the recently arrested youth activist. The Committee requests to be informed of concrete steps taken in this regard and to provide a copy of the judgment against Thet Hnin Aung. The Committee also calls on the military authorities to take all necessary measures to ensure that, pending release, detained workers and unionists are treated with dignity and are not subjected to any form of physical or mental abuse.
461. With regard to the use of violence against workers and trade unionists participating in peaceful protests and independent investigations into allegations of violence (recommendation (c)), the Committee notes with deep concern the additional information from the complainant alleging a deteriorating environment for the exercise of labour rights, in particular, an increased use of lethal weapons against civilians, including workers and unionists who are labelled as supporters of terrorism, the PDF or foreign agents. The Committee regrets to observe the total lack of information

from the military authorities in this respect, besides affirming that they consider some CTUM leaders as associated with groups declared by the military as terrorist and reiterating that no union member has been subjected to violence for exercising their labour rights. The Committee understands, from the information provided by the complainant, as well as publicly available information, that the continued widespread and extreme violence in the country not only affects the civilian population in general but also workers and trade unionists in particular, seriously restricting unions' ability to engage in legitimate activities. The Committee must therefore recall that a genuinely free and independent trade union movement cannot develop in a climate of violence and uncertainty. The exercise of trade union rights is incompatible with violence or threats of any kind and it is for the authorities to investigate without delay and, if necessary, penalize any act of this kind. Blanket linkages of trade unions to an insurgency have a stigmatizing effect and often place union leaders and members in a situation of extreme insecurity [see **Compilation**, paras 86, 88 and 93]. In line with the above, the Committee once again urges the responsible military authorities to immediately cease the ongoing use of violence against workers and trade unionists participating in peaceful protests or otherwise engaged in legitimate trade union activities and to have independent investigations carried out into the allegations of violence against them with a view to determining responsibilities and punishing the perpetrators. The Committee requests to be informed of all steps taken in this regard and the outcome of the investigations.

462. Regarding steps to reinstate citizenship to the trade unionists and workers concerned (recommendation (c)), the Committee notes with concern the complainant's allegations that the citizenship or passports of the CTUM leadership remain void and that, in addition to these measures, the military authorities have been engaged in continuing attacks and a smearing campaign against the CTUM aimed at discrediting the organization and interfering in its internal affairs, as well as those of other independent trade unions. In this regard, the complainant alleges that the military authorities supported the establishment of a parallel trade union confederation with the same name as the CTUM in Burmese and that fake congresses were organized at which workers were asked, under military coercion and surveillance, to elect new CTUM and IWFM leadership from a pre-determined list of pro-military individuals to replace the incumbent leadership (relevant documents were submitted to the Committee but were requested to be kept confidential). The complainant raises concerns that this anti-union attack aims at taking over independent trade unions and turning them into an agency of the State and that workers are forced into organizations that are under the control or influence of the military or businesses that are themselves under the influence of the military. The Committee observes that while the military authorities do not contest that a congress was held in February 2025 to elect new CTUM leadership, they refute the allegation that this creates a parallel organization. Instead, they assert that the new CTUM leadership was elected on the request of CTUM members who considered that the organization's structure had collapsed and lacked leadership. According to the military authorities, some CTUM leaders, including the President, have not participated in labour matters since February 2021, have deviated from their intended purpose by failing to carry out organizational affairs, acted against ILO principles and failed to provide an account of the organization's assets, as requested by CTUM members in the country. They assert that the new leaders were therefore elected through free and fair elections, in line with the applicable legislation and the organization's constitution, to fill the vacant executive and central committee positions and to allow the CTUM to continue to carry out its duties. Regarding the confiscation of passports or citizenship of trade unionists, the military authorities reiterate that actions have only been taken against individuals cooperating with armed organizations engaged in destructive activities and undermining national stability, unrelated to labour activities.
463. The Committee must recall that the current situation, in which numerous trade unionists, including CTUM leaders, were forced to flee the country or go into hiding for fear of their lives because of their opposition to the forceful imposition of a military regime, stems directly from the February 2021

*coup d'état conducted by the military authorities. The Committee therefore considers that this situation cannot be used by these same authorities to justify the unionists' perceived lack of engagement in trade union affairs or as a valid argument for replacement of CTUM leadership, especially considering that, according to the information available to the Committee, the CTUM leaders remain active in servicing their members and engaging in union activities in various territories across the State and to the extent permitted by the current context. Further, given the worrying allegations of military support and involvement in the process, the Committee must recall that any interference by the authorities and the political party in power concerning the presidency of the central trade union organization in a country is incompatible with the principle that organizations shall have the right to elect their representatives in full freedom. The presence during trade union elections of the authorities is liable to infringe freedom of association and, in particular, to be incompatible with the principle that workers' and employers' organizations shall have the right to elect their representatives in full freedom, and that the public authorities should refrain from any interference which would restrict this right or impede the lawful exercise thereof [see **Compilation**, paras 638 and 646]. In light of the above, emphasizing the importance of trade unions remaining independent not only from employers and their organizations but also from the authorities, the Committee, like the Commission of Inquiry, urges the military authorities to immediately cease any action that can be reasonably considered as interference in the internal affairs of independent trade unions, including support for the organization of elections or replacement of executive committee members. The Committee also calls once again on the military authorities to reinstate citizenship and return passports to the trade unionists and workers concerned, to cease any other action that is perceived as an anti-union attack or campaign against independent unions and to indicate the steps taken in this regard.*

464. *Regarding steps to ensure the reinstatement of all remaining civil servants, healthcare workers and teachers dismissed or suspended for their participation in the CDM and to restore any benefits that may have been withdrawn (recommendation (e)), the Committee has previously recalled that for the contribution of trade unions and employers' organizations to be properly useful and credible, they must be able to carry out their activities in a climate of freedom and security. This implies that, in so far as they may consider that they do not have the basic freedom to fulfil their mission directly, trade unions and employers' organizations would be justified in demanding that these freedoms and the right to exercise them be recognized and that these demands be considered as coming within the scope of legitimate trade union activities [see **Compilation**, para. 75]. Taking note of the reiterated information that, following their suspensions for unauthorized absence, 7,904 civil servants have since been reinstated, the Committee calls once again on the responsible authorities to continue to take steps to ensure the reinstatement of all remaining civil servants, healthcare workers and teachers dismissed or suspended for their participation in the CDM and to restore any benefits that may have been withdrawn.*
465. *Concerning the repeal and amendment of sections 124 and 505-A of the Penal Code and section 38(c) of the Electronic Transaction Act (ETA), the withdrawal of the surveillance powers that were restored to the wards and villages under the amended Ward or Village-tract Administration Law, and the withdrawal of the declaration that made certain trade unions unlawful (recommendation (d)), the Committee notes with regret the complainant's allegations that no concrete steps were taken to repeal or amend the above provisions and observes that the military authorities themselves refer to the use of sections 124-A and 505-A of the Penal Code against trade unionists (section 124-A was amended post-military coup to penalize acts of causing hatred, contempt or dissatisfaction towards the defence services and their personnel while section 505-A was newly introduced and establishes the crime of causing fear, spreading false news or agitating a crime against a Government employee). While the military authorities further assert that amendments have only been made to national laws for security purposes, since the country is in a state of emergency, the complainant*

*alleges that additional measures were taken by the military authorities to restrict basic civil liberties and, in particular, freedom of expression. The Committee notes that since May 2024 the use of personal data protection and social media applications by individuals has been prohibited and that the newly adopted Cybersecurity Law No. 1/2025 puts into effect the ban on unapproved usage and stipulates penalties of imprisonment of up to six months for the use of VPNs and up to two years for transmission of unwanted or unsolicited data via a network, including from media or groups labelled as terrorists. Observing that, according to the complainant, these new measures seriously restrict the already limited exercise of trade union rights in the country, including communication and provision of union services, the Committee must recall that freedom of opinion and expression and, in particular, the right not to be penalized for one's opinions, is an essential corollary of freedom of association, and workers, employers and their organizations should enjoy freedom of opinion and expression in their meetings, publications and in the course of their trade union activities. The authorities threatening to press criminal charges in response to legitimate opinions of trade union representatives may have an intimidating and detrimental effect on the exercise of trade union rights [see **Compilation**, paras 235 and 237]. In view of the above, the Committee urges the repeal of the newly adopted Cybersecurity Law No. 1/2025 and of any other measures that unduly restrict the exercise of freedom of opinion and expression, including excessive penalties. In view of the total lack of action in this regard, and in the same vein as the Commission of Inquiry and the ILO Governing Body, the Committee once again firmly urges the repeal and amendment of sections 124 and 505-A of the Penal Code and section 38(c) of the ETA, the withdrawal of the surveillance powers that were restored to the wards and villages under the amended Ward or Village-tract Administration Law, and the withdrawal of the declaration making certain trade unions unlawful so as to ensure full respect for the basic civil liberties necessary for the exercise of freedom of association so that workers' and employers' organizations can carry out their activities and functions without threat of intimidation or harm and in a climate of complete security.*

- 466.** *With regard to ensuring a climate conducive to the full exercise of freedom of association for all workers and employers and recognizing the critical importance of civil liberties as a necessary prerequisite for the exercise of trade union activities (recommendations (f) and (g)), the Committee notes with deep concern the complainant's allegations of a deteriorating environment for the exercise of labour rights since its last examination of the case, with the environment having become extremely dangerous for trade unionists and labour rights activists who are labelled as supporters of terrorism, the PDF or foreign agents, the use of torture and sexual abuse in detention, the continued application of martial law and increased restrictions on basic civil liberties, which the Committee understands have practically inhibited the legitimate exercise of trade union rights in the country and have led to a denial of any possible protection of the civil liberties necessary for workers and employers to be able to carry out their activities in a climate of complete freedom and security. Contrary to these concerns, the military authorities express commitment to upholding and adhering to freedom of association and assert that Myanmar practises freedom of association, that the Ministry of Labour has not hindered activities of labour organizations and monitors labour-related demands and that 64 new workers' organizations were formed since October 2024. While taking note of these general assertions, the Committee observes that the military authorities omit to address the persistent concerns about severe restrictions on basic civil liberties hindering the exercise of trade union rights and do not elaborate on any concrete measures taken to remedy these restrictions. In these circumstances, recalling the repeated calls of the ILO Governing Body on the military authorities to ensure that employer's and workers' organizations are able to exercise their rights in a climate of freedom and security, the Committee must once again call on Myanmar to give the highest priority to ensuring respect for basic civil liberties of workers and employers, which are a prerequisite for the exercise of freedom of association, and to take all the necessary measures to create a climate where freedom of association can be fully and meaningfully restored in Myanmar.*

The Committee also once again urges the military authorities to desist from any and all acts of retaliation against any individual or organization which provided information to the Commission of Inquiry or continues to engage in the ILO procedures ensuring follow-up to the Commission's recommendations.

- 467.** *In conclusion, the Committee expresses the deepest regret at the human and material losses caused by the earthquake that occurred in central Myanmar at the end of March 2025 and recognizes the disastrous consequences it has had on the lives, health and well-being of the population. The Committee extends condolences to the people of Myanmar and expresses its support for and solidarity with the people. The Committee notes with deep concern the latest information provided by the complainant alleging continuous, deliberate and indiscriminate aerial bombings of civilian areas in the aftermath of the earthquake, despite a military-declared ceasefire, as well as systematic obstruction of rescues, causing imminent threat to the lives and activities of the remaining independent unionists. In these circumstances, the Committee urges the military authorities to immediately cease all violence against civilians and trade unionists exercising their legitimate civil liberties and freedom of association rights. It also urges rapid and genuine implementation of its recommendations, as well as those of the Commission of Inquiry, which it considers would constitute a significant contribution to the efforts to rebuild the country and ensure an environment conducive to the full exercise of freedom of association.*
- 468.** *Noting with deep regret the continued failure of the military authorities to implement the recommendations of the Commission of Inquiry and of this Committee, as well as the continuing situation of extreme violence and repression in the country, the Committee draws the Governing Body's attention to the serious and urgent nature of this case.*

The Committee's recommendations

- 469.** **In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:**
- (a)** **The Committee urges for steps to be taken without delay to ensure the immediate release of trade unionists and workers arrested or detained for action in relation to the restoration of their trade union rights and democracy in the country, including Thet Hnin Aung, the General Secretary of the Myanmar Industry, Crafts and Services Trade Union Federation (MICS-TUsF), and Naing Lin Aung, the recently arrested youth activist. The Committee requests to be informed of concrete steps taken in this regard and to provide a copy of the judgment against Thet Hnin Aung. The Committee also calls on the military authorities to take all necessary measures to ensure that, pending release, detained workers and unionists are treated with dignity and are not subjected to any form of physical or mental abuse.**
 - (b)** **The Committee once again urges the responsible military authorities to immediately cease the ongoing use of violence against workers and trade unionists participating in peaceful protests or otherwise engaged in legitimate trade union activities and to have independent investigations carried out into the allegations of violence against them with a view to determining responsibilities and punishing the perpetrators. The Committee requests to be informed of all steps taken in this regard and the outcome of the investigations.**
 - (c)** **The Committee urges the military authorities to immediately cease any action that can be reasonably considered as interference in the internal affairs of independent trade unions, including support for the organization of elections or replacement of executive committee members. The Committee also calls once again on the military**

authorities to reinstate citizenship and return passports to the trade unionists and workers concerned, to cease any other action that is perceived as an anti-union attack or campaign against independent unions and to indicate the steps taken in this regard.

- (d) The Committee calls once again on the responsible authorities to continue to take steps to ensure the reinstatement of all remaining civil servants, healthcare workers and teachers dismissed or suspended for their participation in the civil disobedience movement (CDM) and to restore any benefits that may have been withdrawn.
- (e) The Committee urges the repeal of the newly adopted Cybersecurity Law No. 1/2025 and of any other measures that unduly restrict the exercise of freedom of opinion and expression, including excessive penalties. The Committee once again firmly urges the repeal and amendment of sections 124 and 505-A of the Penal Code and section 38(c) of the Electronic Transaction Act (ETA), the withdrawal of the surveillance powers that were restored to the wards and villages under the amended Ward or Village-tract Administration Law, and the withdrawal of the declaration making certain trade unions unlawful so as to ensure full respect for the basic civil liberties necessary for the exercise of freedom of association so that workers' and employers' organizations can carry out their activities and functions without threat of intimidation or harm and in a climate of complete security.
- (f) The Committee must once again call on Myanmar to give the highest priority to ensuring respect for basic civil liberties of workers and employers, which are a prerequisite for the exercise of freedom of association, and to take all the necessary measures to create a climate where freedom of association can be fully and meaningfully restored in Myanmar. The Committee also once again urges the military authorities to desist from any and all acts of retaliation against any individual or organization which provided information to the Commission of Inquiry or continues to engage in the ILO procedures ensuring follow-up to the Commission's recommendations.
- (g) Expressing its deep regret and condolences for the human and material losses caused by the earthquake that occurred in central Myanmar at the end of March 2025, the Committee urges rapid and genuine implementation of these recommendations, as well as those of the Commission of Inquiry, as a significant contribution to the efforts to rebuild the country and ensure an environment conducive to the full exercise of freedom of association. Deeply concerned by the allegations of continuous and deliberate attacks against civilian areas in the aftermath of the earthquake, the Committee urges the military authorities to immediately cease all violence against civilians and trade unionists exercising their legitimate civil liberties and freedom of association rights.
- (h) Noting with deep regret the continued failure of the military authorities to implement the recommendations of the Commission of Inquiry and of this Committee, as well as the continuing situation of extreme violence and repression in the country, the Committee draws the Governing Body's attention to the serious and urgent nature of this case.

Case No. 3450

Definitive report

**Complaint against the Government of Norway
presented by**

- the Union of Education Norway (UEN)

supported by

- Education International (EI)
- the Confederation of Unions for Professionals (Unio)
- the Norwegian Union of School Employees – Skolenes Landsforbund (SL)
- the Federation of Norwegian Professional Associations (Akademikerne) and
- the Norwegian Association of Graduate Teachers – Norsk Lektorlag (NL)

Allegations: The complainants allege prohibition on the right to strike and the use of compulsory arbitration to settle a collective labour dispute

- 470.** The complaint is contained in communications dated 17 October and 23 November 2023, and 27 May and 21 October 2024 from the Union of Education Norway (UEN). By a communication dated 19 October 2023, Education International supported the complaint. By communications dated 18 October, 1 November, 27 November and 4 December 2023, the Confederation of Unions for Professionals (Unio), the Norwegian Union of School Employees – Skolenes Landsforbund (SL), the Federation of Norwegian Professional Associations (Akademikerne) and the Norwegian Association of Graduate Teachers – Norsk Lektorlag (NL), respectively, associated themselves with the complaint.
- 471.** The Government of Norway sent its observations in communications dated 13 May 2024 and 9 January 2025.
- 472.** Norway has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Labour Relations (Public Service) Convention, 1978 (No. 151), and the Collective Bargaining Convention, 1981 (No. 154).

A. The complainant's allegations

- 473.** In its communications dated 17 October and 23 November 2023, and 27 May and 21 October 2024, the UEN explains that it is Norway's largest union in the education sector and with more than 190,000 members, it is the second largest trade union in the country. The UEN represents teachers in early childhood, primary and secondary education, in training, and in higher education. It also has members working within the Educational and Psychological Counselling Service, at special needs education centres, in the adult education sector and in administration. The UEN has more than 90,000 members within the Norwegian Association of Local and Regional Authorities (KS) collective wage agreement area. In this respect, the UEN explains that the KS is the country's largest public employer organization that negotiates wages and working conditions for over 450,000 employees (20 per cent of the workforce in Norway) on behalf of all Norwegian municipalities and counties, except for the municipality of Oslo.

- 474.** The UEN indicates that it negotiates collective wage agreements through Unio and explains in this regard that, pursuant to the Basic Agreement, the right to negotiate is given to four national trade union confederations, namely Unio, the Norwegian Confederation of Trade Unions (LO), the Confederation of Vocational Unions (YS) and Akademikerne. Even though it is a confederation of trade unions that negotiates with the employers' association, it is the individual union (for example the UEN in Unio) that is a party to the collective agreement with the KS and thus has the right to take industrial action. The KS enters into identical Basic Collective Agreements with affiliates of all four national confederations.
- 475.** According to the UEN, as well as the EI, Unio, SL, Akademikerne and NL, which supported the complaint, the dispute that led to the strike in question concerned a new Basic Collective Agreement for the 1 May 2022–30 April 2024 period, as well as wage adjustments after the 2022 wage settlement and 2023 wage adjustments. The UEN indicates that the underlying rationale behind the decision to initiate the strike was tied to two issues that had been plaguing the education sector: (1) conspicuous and persistent wage disparity within the education sector, commonly referred to as a “wage-lag”, which had been the source of mounting discontent among educators, who were of the opinion that their remuneration had not kept pace with the increasing demands and responsibilities of their profession; and (2) an acute shortage of educators. In light of these intertwined challenges, the decision to strike was perceived as a necessary and concerted effort to draw attention to these issues and to advocate for their resolution in order to safeguard the quality and continuity of education.
- 476.** The UEN explains that after a breakdown in negotiations with the KS, the four national confederations filed a notice of strike with effect from 3 May 2022. Pursuant to the provisions of the Labour Disputes Act, the National Mediator issued a ban on work stoppages on 29 April 2022 and summoned the parties to compulsory mediation. During the mediation, the confederations reached a solution in accordance with the mediator's proposal. The negotiated solution was sent to a preliminary vote with a deadline of 22 June at 12 p.m. The negotiated solution was dismissed by all education unions (the UEN, the SL and the NL), but not by other affiliates of the four confederations. The SL was the first union to go on strike, calling its three members to strike on 8 June 2022. The UEN initiated the announced strike on 20 June 2022 (three days before the start of the summer break) by calling 45 members to strike and limiting the action to one school. The NL called 30 members to strike on 15 August 2022. The first significant call to strike, involving 1,322 UEN members, took place on 22 August 2022. The largest call to strike took place on 13 September 2022 and involved 2,914 UEN members. By the time the Government intervened on 27 September 2022, about 8,500 union members in total were called to strike, 8,300 of whom were members of the UEN.
- 477.** The UEN provides information on the prior arrangements and exemptions from strike as set out in the Basic Agreement. According to its section 5-1-2, the top management of an enterprise, including the head of personnel, shall not be involved in a strike. Furthermore, before resorting to industrial action in the context of labour disputes, the parties commit to negotiate as soon as possible the exemption of individuals or groups whose exclusion is necessary to avoid undue harm to the interest of the public. If no agreement is reached through negotiations, the elected employees' representatives shall bring the matter before their respective employees' organizations, which, with binding effect on their members, will determine whether, and in which cases, individuals/groups should be excluded from the proposed action. This clause imposes a duty on the parties to discuss with each other which employee groups should be excluded from the strike, providing the parties an opportunity to discuss and agree, prior to the start of the industrial actions, on the list of exempted employees with a view to ensuring that the interests of both parties directly involved in a dispute, as well

as affected third parties are adequately safeguarded. The Basic Agreement affords employers the opportunity to “apply for exemptions for named employees who have been included in a strike and who, due to threat to life and health or other vital considerations, must be present or reintegrated into work”. According to the UEN, in general, it approves such requests very liberally and generously, with more than 90 per cent of the requests granted.

478. The UEN indicates that it took various measures to minimize and mitigate the possible adverse effects the strike could have had on pupils. Prior to each call to strike, the local strike offices received directives to conduct impact assessments in close collaboration with the central strike office. The aim was to protect vulnerable pupils, including those with special needs who were receiving special needs education, from significant disruption to their learning process. The following categories of teachers were completely exempted from the strike: (1) early childhood education teachers; (2) first grade teachers; (3) teachers responsible for pupils with special needs education; and (4) teachers responsible for prison educational programmes. In addition, and as indicated above, the employer could apply for dispensation for particular teachers if they considered that individual pupils were particularly affected by the strike.
479. The UEN indicates that on the basis of reports received from the Ministry of Education and Research and the Ministry of Health and Care Services, the Minister of Labour and Social Inclusion summoned the parties to a meeting at the Minister’s office on Tuesday, 27 September 2022 at 7 p.m. After concluding that there was no immediate possibility of resolving the dispute, the Minister informed the parties that the Government would impose compulsory arbitration. According to the UEN, the negotiation or determination of a minimum service in lieu of an outright ban on industrial action through the imposition of compulsory arbitration was not included in the Government’s considerations. At the request of the Minister, three teachers’ unions agreed to resume work. The UEN explains that while the obligation to end the strike comes into effect when there is a formal legislative decision to that effect, it is usual practice to follow the Minister’s request when informed that the Government would intervene by imposing compulsory arbitration. Referring to “concerns over the grave societal consequences”, in particular “for the educational offering to children and youth, their psychosocial environment, and their mental health”, the Ministry of Labour and Social Inclusion advised that a proposal for compulsory arbitration would be submitted to Parliament. The UEN points out that while there are always “societal consequences” in the case of a strike in the education sector, this does not make it an essential service in the strict sense of the term.
480. In accordance with the standard legislative procedures, the proposed Act was referred to the Standing Committee on Labour and Social Affairs for consideration. The Committee recommended that the Act be passed as proposed by the Ministry of Labour and Social Inclusion. However, some members of the Committee opposed the recommendation, stating that the legislation was insufficiently substantiated by facts and that it was in violation of Norway’s obligations under the ILO Conventions. Nevertheless, by Legislative Resolution No. 8 (2022–2023) of 1 December 2022, the Storting (Parliament) decided that the National Wages Board (NWB) should settle the dispute. The Act was sanctioned by the Cabinet on 16 December 2022 and entered into force immediately.
481. The UEN explains that Norway has no general legislation limiting the right to strike, nor any general legislation on the use of compulsory arbitration. Interventions in an impending or current labour dispute must therefore be decided on a case-by-case basis through the regular procedure for legislative enactments according to the Constitution. When a law on compulsory arbitration is enacted, the NWB is the institution that is given the authority and mandate to resolve the dispute. The NWB is a permanent board arbitrating collective labour disputes and

disputes that are referred to it by the Storting. The functioning of the NWB is regulated by the National Wages Board Act (No. 10) of 27 January 2012. The NWB decisions have the status of a collective agreement. The NWB follows its own established practice and principles. One such principle is the principle of deferred payment. If the parties come to an agreement voluntarily, meaning without compulsory arbitration, the retroactive payment of the general wage supplement is granted from the date of expiry of the former collective wage agreements or from whatever date the parties agree upon. However, if the conflict is resolved through compulsory arbitration, retroactive payment of the general wage supplement is granted only from the date the work is resumed after the strike or, in some cases, from the date of the NWB decision. This is a financial incentive to discourage strikes; it also encourages employer representatives to avoid negotiation. In the present case, the NWB upheld the National Mediator's proposal and none of the employees' claims were successful. The retroactive payment of general supplements was granted from the day the work resumed, that is on 27 September 2022.

- 482.** The UEN alleges that the interference through compulsory arbitration in a legal strike in the education sector was unjustified and in breach of the principles of freedom of association as laid down in Conventions ratified by Norway (Convention Nos 87, 98, 151 and 154). The education sector is not an essential service, and the strike in question did not pose a clear and imminent threat to the life, personal safety or health of the whole or part of the population. The UEN further claims that, in any case, minimum services could have been established in full consultation with the social partners instead of prohibiting industrial action and imposing compulsory arbitration. According to the UEN, the lack of a discussion on whether compulsory arbitration in this case was in compliance with international Conventions indicates the lack of awareness of and respect for the safeguards and limits that the ILO Conventions impose on States regarding workers' right to strike. At the same time, the Government clearly stated that they were not able to obtain a complete overview of the specific consequences of the strike for individual pupils. In its report of 21 September 2022, the Ministry of Education and Research stated that the reduction of activity in schools had a negative impact on the cooperation between various services responsible for the well-being of the children, but that the magnitude of this impact was unclear. According to the UEN, several members of the Standing Committee on Labour and Social Affairs also pointed out that the Government's justification for its decision to impose compulsory arbitration was vague and poorly documented. The UEN believes that the decision to impose compulsory arbitration was premature and made without adequate knowledge and it thus constituted a violation of the right to strike. The UEN points out that the consequences of strikes on pupils' learning opportunities do not in themselves justify the restrictions imposed on teachers' right to strike.
- 483.** As for special needs pupils, the UEN underlines that special education is generally provided though a predetermined number of hours/classes, on the basis of individual administrative decisions. This allows schools to be flexible when organizing and providing this type of education to their pupils, which means that such classes could have been carried out after the strike and throughout the remainder of the school year. Moreover, special needs education was one of the areas that the UEN attempted to shield during the strike through exemptions and dispensations. The UEN points out that it was known to the Government that while all employers had the right to request exemptions for teachers who provided special needs education, there were many who did not apply for such exemptions.
- 484.** The UEN indicates that while Norway has been previously criticized by the ILO for not imposing minimum services instead of compulsory arbitration (Cases Nos 2484, 2545 and 3038), the Government did not carry out any genuine discussions in this regard. Instead, the Government

considered that, based on the reports from Ministry of Education and Research dated 20 September 2022, compulsory arbitration should be imposed. The reports emphasized that the strike had a negative impact on vulnerable children and that this impact increased as the strike progressed and that it would be “especially challenging, as there is a scarcity of competent professionals”. The UEN points out, however, that the shortage of competent professionals is not a consequence of a particular strike, but rather an ongoing challenge. The failure to address the shortage of education professionals is the responsibility of the Government, and not of the teachers themselves. Restricting the right to strike on the grounds of a lack of sufficient professionals is irrelevant, disproportionate, unreasonable, and unsuitable. Rights and freedoms should not be curtailed because of decisions made by governments regarding resources. The Government did not explore remedying the shortage of professionals, heightened during the strike, by considering minimum services instead of stopping the strike and resorting to compulsory arbitration. Minimum services would have allowed the utilization of limited resources, that is, the professional expertise for children with special needs, while at the same time safeguarding the right to strike.

485. The UEN points out that while the Government states that the strike had been ongoing for more than 100 days at the time of the intervention, the strike formally started on 20 June, only a few days before the start of the summer holidays in Norwegian schools, which last until mid-August (17 August 2022). In reality, the pupils were affected for, at most, 30 days. Moreover, initially it was mainly high school students who were affected by the strike, and with one exception, it was not until 5 September 2022 that the middle school teachers started participating in the strike. Furthermore, teachers of pupils in first grade and pupils with special needs did not participate in the strike in order to protect these groups of students. At the time of the Government’s intervention, around 72,000 pupils were affected by the strike and, while this is a significant number, it constitutes around 9 per cent of pupils in Norwegian schools. Only 4 per cent of pupils were affected by the strike for four or more weeks. The UEN emphasizes, however, that the mere fact that a significant number of pupils were involved, should not automatically lead to the imposition by the Government of compulsory arbitration.
486. The UEN further indicates that in support of the intervention, the Government referred to the fact that the strike occurred in the aftermath of the COVID-19 pandemic. The UEN questions the legal relevance of this fact and explains that contrary to the situation during the pandemic, during the 2022 strike, children had access to schools as well as numerous other platforms where they could meet; in other words, during the strike, there were no restrictions imposed on pupils themselves. In the UEN’s opinion, the Government’s argument regarding the lack of a safe environment for the children during the strike is thus misleading.
487. The UEN informs of the ongoing work in Norway to minimize the use of compulsory arbitration. A multipartite working group was established at the initiative of the Minister of Labour and Social Inclusion to explore the possibilities for reducing the need for compulsory arbitration. The group had a relatively broad mandate and considered whether there should be more extensive use of prior arrangements between the parties regarding which groups and/or individuals should be exempted from strike to avoid undue harm to third parties. Such arrangements are already in place in many collective agreements. The background for the report was the previous encouragements by the Committee to assess possible alternatives in order to decrease the use of compulsory arbitration in Norway. With the exception of its chairperson, the working group was composed of representatives from various labour and employers’ organizations. Representatives of the Ministry of Labour and Social Inclusion participated in the discussions. The working group was thus composed of parties with different approaches and interests when it comes to collective bargaining and the question of

compulsory arbitration. While some of the working group's members were perfectly content with the status quo, others had been vocal regarding the current system's major issues. The working group's composition was thus unfortunately bound to present challenges for coming up with suggestions and solutions. The working group issued its report in May 2024. While its work was welcomed by all interested parties, including the UEN, the composition of the group had a bearing on its outcome. The report contained no suggestions for changes or actions to take regarding the current system. While the working group discussed some alternatives, including the possibility for introducing minimum services, it concluded that:

Although the system has challenges and room for improvement, the working group believes that considerable caution must be exercised in making major changes that could shift the balance of power between otherwise equal parties. The working group points out that the Norwegian system consists of various interconnected and interrelated rules. Even small changes or the introduction of new individual elements could therefore have an impact on the entire system, including affecting the balance of power between the social partners and contributing to more labour disputes. These considerations have guided the working group's assessments and recommendations.

- 488.** While the working group's report acknowledges that Norway has been criticized by the Committee for not considering the possibility of establishing minimum services as an alternative to compulsory arbitration, the working group concluded that it did not recommend a system with minimum services. The working group briefly discussed the possibility of establishing independent bodies for the assessment of minimum services both on a general basis and also solely within the public sector but refrained from suggesting the establishment of the latter, arguing that such a change might have an impact on the balance between the parties. The UEN indicates that in light of the report and the lack of any constructive conclusion therein, the Government appears to be content with the status quo and has no intention of making any alterations to the existing system.

B. The Government's reply

- 489.** In its communications dated 13 May 2024 and 9 January 2025, the Government explains that the labour conflict in question arose during the revision of the main collective agreements in the municipal sector, established between the KS, representing the employers, and the LO Municipality, Unio and Akademikerne, and their affiliates, representing the employees. After the negotiations broke down on 29 April 2022, the National Mediator issued a temporary work stoppage ban and summoned the parties to mediation. The mediation was conducted on 2 and 21–24 May 2022 during which the confederations reached a solution in accordance with the mediator's proposal. The negotiated solution was sent for a preliminary vote to the affiliated trade unions with a deadline of 22 June 2022. The proposal was accepted by all trade unions, except for the three education unions – the UEN, SL and NL.
- 490.** The Government indicates that the three trade unions – the UEN, SL and NL – went on strike in June 2022 by calling out a limited number of members. Following the commencement of the school year and throughout the autumn, the strikes escalated. As of 27 September 2022, the strikes involved a total of 8,538 members of the unions, of which 8,343 were members of the UEN. At that point, the UEN announced further call-outs, with 277 members as of 28 September 2022 and 123 members as of 3 October 2022. The Minister of Labour and Social Inclusion summoned the parties to a meeting on 27 September 2022. The parties informed the Minister that they saw no immediate possibility of reaching a consensus that would settle the disputes and prevent further escalation of the industrial actions. Considering this, the Minister informed

the parties that the Government had no other choice than to intervene and propose that the disputes be solved by the NWB compulsory arbitration.

- 491.** The Government indicates that during the strike, the Ministry of Labour and Social Inclusion maintained continuous communication with the Ministry of Education and Research, the Ministry of Health and Care Services, and the Ministry of Children and Families in order to assess the consequences of the strike action. Reports detailing the consequences of the strike were provided by the Norwegian Directorate for Education and Training, the Norwegian Directorate of Health and the Norwegian Institute of Public Health (FHI) to the Ministry and revealed that the strike had significant consequences for the affected pupils, and that these consequences became increasingly severe as the strike persisted. On 21 September 2022, the Ministry of Education reported that the strike had serious consequences for a number of children and young people's access to education. The Ministry emphasized that the strike affected children and young individuals who had already experienced disruption of schooling during the COVID-19 pandemic. It highlighted that pupils in vulnerable situations were particularly affected. The Ministry of Labour and Social Inclusion also received numerous reports from various sources regarding the impact of the strike on the health of children and teenagers. These concerns were raised by the Children's Ombudsperson, by affected parents and pupils, and by medical practitioners working in the affected municipalities. In light of the above, the Ministry of Health and Care Services was requested to gather further information on how the strikes impacted the mental health of children and youth. In its report dated 22 September 2022, the FHI pointed out that there were many aspects of the strike action that could not be compared to the situation of school closures during the pandemic. Unlike during the pandemic, the pupils affected by the strike had little or no contact with their teachers, potentially putting already struggling and vulnerable young persons at risk of going unnoticed. The FHI also stated that older children and teenagers affected by the strike were likely to be more isolated without parental supervision compared to during the pandemic, when working from home was more prevalent. Furthermore, they noted that children and teenagers who had difficulties during the pandemic and had not resumed schooling after the holidays, lacked regular support over a considerable period. On 26 September 2022, the Ministry of Health and Care Services reported that several county governors noted an increased demand for various health services for children and teenagers. The Ministry of Labour and Social Inclusion also received a number of reports expressing serious concerns from several health institutions regarding the health of individual pupils. The reports of concern pertained to patients whose health conditions had worsened as a result of the strike, and included instances of self-harm, suicidal thoughts, and emotional disturbances such as depression and anxiety.
- 492.** The Government points out that the right to receive basic education is enshrined in the Norwegian Constitution and that it was a serious matter that a number of children and teenagers were not having their constitutionally protected rights fulfilled for an extended period of time. Several pupils with special needs were not receiving the services to which they were entitled. Around 72,000 pupils had been affected by the strike, many of them having been deprived of any schooling since the start of the academic year. If the planned escalation of the strike were to occur, the number of affected pupils would have further increased.
- 493.** The Government indicates that as of 27 September 2022, the strike had been ongoing for over 100 days, and the conflict between the parties appeared to have gone into deadlock. Based on the reports received, the Government assessed that the conflicts had reached a critical point where the consequences for children and teenagers required intervention. The assessment was based on a comprehensive evaluation of the serious consequences for the pupils'

educational opportunities, psychosocial environment and mental health, and took into account the impact of the COVID-19 pandemic.

- 494.** The Government indicates that in Norway, there are long traditions for collective bargaining. The right to organize and the right to conduct collective bargaining are recognized as fundamental principles in law and are supported by the legislation with procedural rules and institutions for resolving disputes. There are no legal restrictions as to who can form and join trade unions, and there is no interference from the authorities concerning the constitution and rules of trade unions and their activities. The right to industrial action is a precondition for, and thus a part of the right to, free collective bargaining. No prohibition of strikes or lockouts exists, except for senior civil servants and military personnel. These groups nevertheless enjoy the right to organize and the right to collective bargaining. A basic tenet in the Norwegian system is that the social partners are responsible for wage negotiations and industrial peace. Along with this responsibility comes an expectation that labour disputes are handled in a responsible manner. The social partners have several instruments at their disposal to reduce the likelihood of a labour dispute endangering life, health or vital public interests, in particular through the selection of striking workers and utilizing pre-agreements and exemptions during the conflict. An inherent consequence of the social partners' responsibility for collective bargaining and labour disputes, is that the authorities do not interfere in how they use these various measures. The authorities do not have the power to order the parties to put in place pre-agreement or exemption or other measures to compensate for the effects of industrial actions. To balance the wide, unrestricted freedom of organization and collective bargaining, which includes the right to industrial action, there is a broad consensus that the Government has the ultimate responsibility for preventing labour conflict from causing serious damage. The threshold for the Government intervening in a labour dispute is high, and a labour dispute will only be halted if it is endangering life, health or vital public interest. Should the Ministry of Labour and Social Inclusion find that a conflict has such damaging effects, the Government submits a bill to Parliament proposing the strike or lockout be forbidden, and for the conflict to be solved by the NWB.
- 495.** The Government explains that the NWB is an independent arbitration body appointed pursuant to the National Wage Board Act. In each case, the NWB is composed of nine members, of whom five are appointed by the Government for a period of three years. Three of those five members are neutral (independent of the Government and its social partners). The two remaining members represent the interests of employees and employers, respectively. These two members of the NWB, however, have more of an advisory function and have no right to vote. The parties in the individual dispute each nominate two members of the NWB. Only one of the members from each party, and the three neutral members are entitled to vote. The decision of the NWB has the same effect as a collective agreement reached between the parties.
- 496.** The Government indicates that it intervened to end the strike in question only after the parties had bargained collectively for an extended period of time, went through compulsory mediation and had been on strike for over 100 days. At all times up to the final decision of the NWB, the disputing parties had the opportunity to reach an agreement without interference.
- 497.** The Government points out that it puts significant effort into being in compliance with its obligation under the ILO Conventions and that an intervention will always be evaluated against the applicable Conventions, as was done in this particular case. It further indicates that international instruments constitute a legal framework, which must be interpreted within the national context. ILO Member States have a certain margin of discretion, and the assessment of the consequences of a labour dispute must be concrete and based on the circumstances of

each case. A State acknowledging the right to industrial action must accept the inconvenience or even damaging consequences entailed by such action. However, there must exist some limits as to the costs the society should have to bear. The Government argues that the decision to intervene to stop the strike must be considered in light of the fact that it occurred in the aftermath of the COVID-19 pandemic, which affected pupils' access to education, community and the safe environment that the school represents. Additionally, the fact that several fundamental rights laid down in various international Conventions had to be balanced against each other made the assessment particularly complex and challenging. Just as the right to strike is constitutionally protected in Norway, so too is the right to basic education, which is also enshrined in numerous international Conventions ratified by Norway. Recognizing that the education sector is not usually regarded as essential in the strict sense of the term, the Government contends that in this particular case, it had become essential due to the strike's long duration, extensive scope, and the fact that it occurred in the aftermath of a two-year pandemic. The Government recognizes that long-term consequences related to education are not solely sufficient to justify intervention. However, this does not mean that this type of consequence cannot be included in an assessment of an intervention. The Government refrained from intervening until reports showed that the strike had seriously impacted the pupils' psychosocial environment and mental health. Restrictions in educational offering and lack of a normal everyday school life hit vulnerable pupils and pupils with special needs particularly hard. The gravity of the situation did not leave the Government with any other choice but to terminate the strike. In the Government's view it would have been irresponsible to let the strike continue.

- 498.** The Government acknowledges that the UEN was willing to grant exemptions from the strike to minimize its harmful effects for vulnerable pupils and pupils with special needs, and that compensatory actions were taken. Nevertheless, according to the reports, the strike had serious consequences on this category of students. The Government points out that the responsibility for the implementation of a labour conflict lies with the social partners, and that the authorities cannot oblige the parties to require or grant exemptions or implement other compensatory measures. The Government maintains its view that the fact that minimum services were not imposed does not constitute a breach of the Conventions.
- 499.** The Government argues that the case at hand differs from Case No. 2803 (Canada) and Case No. 1448 (Norway). Unlike in the present case, the strike in Case No. 2803 did not involve pupils in primary and secondary education, but rather university students. In the Government's view, the significant role that the school plays in the lives of children and teenagers implies that the threshold for when this service can be considered essential, due to a prolonged and extensive strike, must be somewhat lower than at the university level. In comparison with the strike in the present case, which lasted over 100 days and involved 8,343 employees in the educational sector, the strike in Case No. 1448 involved 300 employees and lasted for two weeks at the time of interference.
- 500.** The Government indicates that there is a broad consensus between political parties and the social partners regarding the system of governmental intervention in industrial actions. It is a common view that the system of intervention by the Government and reference to compulsory arbitration (when adopted by Parliament) is an integral part of the Norwegian labour market model. The Government's intervention in the form of imposing minimum services would constitute a significant deviation from the existing system of collective bargaining. In the Government's view, such a radical change presupposes a broad consensus among the social partners. The Government has on several occasions raised the issue of the use of compulsory arbitration in dialogue with the social partners, including possible ways of reducing the need

for intervention by the Government. In 2001, a committee consisting of leaders of the main trade unions and employers' organizations and a number of experts was mandated to assess whether the Norwegian negotiation system and the institutional framework in private and public sectors was functioning well. The committee thoroughly assessed possible measures to reduce the need for using arbitration, and the possibility of introducing a system of minimum services. The assessment was not followed up by any specific proposal as the social partners and experts were satisfied with the status quo.

- 501.** The Government recalls that the Committee encouraged it to discuss these issues with the social partners (Case No. 3147). In March 2023, the Government established a working group with the social partners to discuss the current compulsory wage arbitration system. The group consisted of representatives of the most representative workers' and employers' organizations – the LO, Unio, Akademikerne and the YS, and the Confederation of Norwegian Enterprise (NHO), KS, Spekter and Virke. As 90 per cent of trade unions in Norway are affiliated with one of the above-mentioned main confederations, the vast majority of trade unions were thus represented in the working group and had the opportunity to share their views through their representatives. This also applies to the UEN, which is affiliated to Unio. The primary objective of this working group was to generate suggestions on how to reduce the recourse to compulsory arbitration.
- 502.** The working group concluded its work in May 2024, producing a comprehensive report. The Government points out that the working group emphasized that a core element of the national system is that the social partners are given full responsibility for wage setting and industrial peace. The group highlighted the significance of pre-agreements and exemptions as essential tools at the disposal of the parties in labour disputes. They pointed out that these mechanisms reflect a balance of power between workers and employers. Further, the group stated that any alterations by the authorities to the established framework risked disrupting this balance and could lead to unintended repercussions to the entire system. Hence, the group concluded that the social partners themselves must determine whether to establish a system of minimum services, including the consideration of utilizing pre-agreements and/or exemptions. The working group assessed: (a) the possibility of introducing an obligation to negotiate minimum services before the start of a labour dispute; (b) the possibility of establishing a board which the parties in a labour dispute may ask to determine the necessary minimum service during a labour dispute; and (c) the introduction of legal rules on minimum service in the public sector. However, none of these alternatives were considered desirable. The working group found it "challenging to devise measures that safeguard the autonomy of the parties without risking imbalance in the power dynamics between the bargaining parties". Furthermore, it considered that "the current system functions effectively overall". Nevertheless, all members of the working group committed to engage in further dialogue regarding the utilization of available mechanisms, particularly pre-agreements and exemptions. Beyond this however, the group did not recommend pursuing any of the measures it discussed. The Government indicates that in the assessment of the possibility of establishing a board that can determine minimum services, the working group referred to previous complaints against Norway where the Committee advocated for such arrangements. It concluded:

In the working group's view, the introduction of a board that will give advice or make decisions on minimum services would imply a marked departure from the established system where the parties initiating an industrial action are also responsible for the initiation and implementation of the dispute. The working group expresses considerable scepticism towards the establishment of an institute which deprives the collective bargaining parties of control over issues that may have a decisive impact on the course of the dispute. Such an approach is claimed to involve a structural change which may have implications for how labour disputes

are handled by the parties. It is also difficult to imagine how a board can have enough knowledge to decide what staffing is necessary in the individual dispute.

- 503.** The Government acknowledges that, as pointed out by the UEN, the working group was composed of parties with different approaches and interests. As a result, on some issues the group was unable to reach unanimous conclusions. On such matters, the minority expressed their own views. On the matter of minimum services there was, however, no disagreement between the parties. The group concluded unanimously that the Government's involvement in the establishment of minimum services was undesirable. The Government disagrees with the UEN assertion that the working group only discussed the possibility of establishing independent bodies for assessment of minimum services, and that the possibility of implementing minimum services through ad hoc legislation was not assessed. According to the Government, the working group discussed statutory rules on minimum services and ad hoc legislation was one approach that was briefly discussed. The Government points out that the parties were encouraged to suggest topics for discussion early in the process, including on alternative arrangements for setting up minimum services. The parties showed little interest in discussing such arrangements and did not propose any discussion topics related to this matter. The consistent feedback from the working group was that the Government should be very cautious about making any changes, as this could impact the entire system and shift the balance of power between the parties. The working group also emphasized that solutions that work well in other countries might not be compatible with the Norwegian system. In light of this, the group expressed the need for more information and further analysis:

Although the system generally works well, there is always room for improvement. The working group believes that considerations should be made as to whether a research project should be initiated The project should obtain more knowledge about schemes, including dispute resolution mechanisms, in other countries, for example. The detailed content of this project should be determined together with the labour market stakeholders.

- 504.** In line with this recommendation, the Government initiated a research project on various negotiation systems, conflict resolution mechanisms and forms of industrial action in the Nordic countries. The social partners were informed of this in a meeting of the Council on Labour and Pension Policy on 3 September 2024 and were encouraged to provide feedback. The Government indicates that it will continue the dialogue on minimum services with its social partners once the information requested by the working group is available.

C. The Committee's conclusions

- 505.** *The Committee notes that the complainants in this case – the UEN, EI, Unio, SL, Akademikerne and NL – allege that the Government imposed compulsory arbitration to end a strike in the education sector. The Committee understands the course of events that led to compulsory arbitration as follows. The dispute arose during the negotiation of a wage settlement and a collective agreement for the 2022–2024 period between the KS and four national trade union confederations – Unio (of which the UEN is a member), the LO, YS and Akademikerne. After a breakdown in negotiations, the four national confederations filed a notice of strike with effect from 3 May 2022. Pursuant to the provisions of the Labour Disputes Act, the National Mediator issued a ban on work stoppage on 29 April 2022 and summoned the parties for compulsory mediation. During the mediation, the parties reached a solution in accordance with the mediator's proposal. The negotiated solution was sent to the trade union confederations' affiliates for a vote. While accepted by some unions, it was dismissed by the education unions (the UEN, SL and NL). The SL went on strike first by calling three members to strike on 8 June 2022. The UEN initiated the strike on 20 June 2022 (three days before the start of the summer break) by calling 45 members. The NL called its 30 members on strike on*

15 August 2022. The first significant call-out to strike involving 1,322 UEN members occurred on 22 August 2022; it was followed by a larger call-out on 13 September 2022 and involved 2,914 UEN members. By the time the Government intervened on 27 September 2022, about 8,500 trade union members were on strike. After concluding that there was no possibility of finding a solution, the Minister of Labour and Social Inclusion informed the parties that the Government would submit a proposal for compulsory arbitration to Parliament. At the request of the Minister, all three teachers' unions agreed to resume work. On 1 December 2022, the Parliament adopted a resolution referring the dispute to the NWB, which then dealt with the dispute in question. The Committee notes that the complainants and the Government appear to agree on the facts as relayed above.

- 506.** *The Committee notes that while the complainants and the Government agree that the education sector is not an essential service in the strict sense of the term, the Government considers, however, that there comes a time when the consequences of a strike become so serious that they warrant its intervention. The Government indicates that in the present case, the duration of the strike (over 100 days), the number of students affected (over 72,000) and the grave consequences of the strike on students' mental health and their right to education, as considered against the background of previous disruptions of schooling due to the COVID-19 pandemic, justified the Government's intervention by imposing compulsory arbitration to end the strike. The Government also points to the grave effects the strike had on pupils with special education needs. In this regard, the Government refers to the reports detailing the consequence of the strike provided by the Ministry of Education, the Ministry of Health and Care Services, the FHI and the Children's Ombudsperson. These institutions reported that the strike affected children and young individuals who had already experienced disruption of schooling during the COVID-19 pandemic and highlighted that pupils in vulnerable situations were particularly affected. The reports also raised mental health concerns in light of the fact that children and teenagers affected by the strike were likely to be more isolated, and noted an increased demand for various health services for children and teenagers arising from reported instances of self-harm, suicidal thoughts, and emotional disturbances such as depression and anxiety.*
- 507.** *The Committee notes that the complainants disagree with the Government's assessment and consider that the Government once again failed to give effect to the previous and repeated recommendations the Committee made in similar cases concerning Norway to negotiate a minimum service with the parties concerned. In this respect, the Committee notes the complainants' main arguments are as follows. With regard to the Government's indication that the strike lasted for over 100 days, the complainants point out that the strike began in June, just a few days prior to the summer break, which lasted until mid-August, and effectively ended on 27 September 2022. While 72,000 students is a significant number, it represents only 9 per cent of middle school and high school students; moreover, only 4 per cent of students were affected by the strike for four or more weeks. The complainants further emphasize that the mere fact that a significant number of students were involved should not automatically lead to the banning of strikes. The complainants further consider that the Government should not have taken into consideration the effects of the COVID-19 pandemic when it decided to impose compulsory arbitration. With regard to the Government's indication that the declining mental health of students was also considered in its decision to intervene, the complainants indicate that teachers do not have professional responsibility for students' health and that it was for the Government to ensure that measures involving responsible professionals were taken to avoid any such negative effects. With regard to pupils with special education needs, the UEN indicates that as the teaching for such students is tailored to their needs and thus more flexible, there would not have been any loss in their education by the end of the year and that in any case, it took measures to exempt special education teachers from the strike action in order to shield such students from the effects of the strike. Furthermore, the UEN indicates that it took safeguarding measures by exempting from the strike early childhood and first grade teachers*

and was ready to take further measures to exempt more teaching personnel from striking, but there were no requests to that effect. The Committee notes that the Government does not dispute that the UEN implemented the safeguarding measures as described.

508. At the outset, the Committee recalls that in the past, it has dealt on multiple occasions with cases concerning compulsory arbitration in Norway imposed in non-essential sectors through legislative intervention in the collective bargaining process thereby ending strike action [see Case No. 1255 (234th Report), Case No. 1389 (251st Report), Case No. 1576 (279th Report), Case No. 2545 (349th Report), Case No. 3038 (372nd Report) and Case No. 3147 (378th Report)]. This case is not different as the Government recognizes that it imposed compulsory arbitration in the education sector which, it agrees, is not an essential service. While the Committee is sensitive to the arguments outlined above provided by the Government to justify its decision to refer the dispute to compulsory arbitration in the present case, the Committee wishes to recall that minimum services may be established in the education sector, in full consultation with the social partners, in cases of strikes of long duration [see **Compilation of decisions of the Committee on Freedom of Association**, sixth edition, 2018, para. 898]. Furthermore, the possible long-term consequences of strikes in the teaching sector do not justify their prohibition [see **Compilation**, para. 846]. The Committee further recalls that compulsory arbitration to end a collective labour dispute and a strike is acceptable if it is at the request of both parties involved in a dispute, or if the strike in question may be restricted, even banned, i.e. in the case of disputes in the public service involving public servants exercising authority in the name of the State or in essential services in the strict sense of the term, namely those services whose interruption would endanger the life, personal safety or health of the whole or part of the population [see **Compilation**, para. 816]. The Committee considers that it is difficult to reconcile arbitration imposed by the authorities at their own initiative with the right to strike and the principle of the voluntary nature of negotiation [see **Compilation**, para. 819]. The Committee notes the efforts indicated by the UEN to restrict the impact of the strike, which, while acknowledged by the Government, were considered insufficient.
509. The Committee notes the Government's emphasis on the fact that the Norwegian system of collective bargaining recognizes the right of the social partners to industrial action. The Committee therefore welcomes the efforts undertaken to establish a tripartite working group, at the initiative of the Minister of Labour and Social Inclusion, to explore the possibilities of reducing the recourse to compulsory arbitration. The Committee notes that the social partners were included in its composition and that the tripartite working group had before it the Committee's previous cases concerning compulsory arbitration in Norway. The Committee notes, however, that the tripartite working group concluded that the possibility of the Government's involvement in the establishment of minimum services was not desirable and also expressed a doubt regarding the possibility of establishing an independent body to deal with the question of minimum services. Satisfied overall with the functioning of the existing collective bargaining system, the tripartite working group did not recommend any changes to it. The Committee understands, however, that the tripartite working group considered that while generally, the system worked well, there was room for improvement and requested further research and information regarding various negotiation systems, conflict resolution mechanisms and forms of industrial action in the Nordic countries. The Committee notes that the Government indicates that on 3 September 2024, it encouraged the social partners to provide their feedback towards this research. The Committee further notes the Government's expressed commitment to continue the dialogue with the social partners and to resume discussion on minimum services once the results of the research are available.
510. In light of the above, the Committee regrets that the issue of the use of compulsory arbitration by the Government to end a legitimate strike and impose the terms of collective agreement has arisen in the country on various occasions as attested by the previous complaints. The Committee urges the

Government to continue to consult with the social partners regarding appropriate means of resolving strikes, including reducing recourse to compulsory arbitration. The Committee trusts that the research initiated by the Government will be concluded expeditiously and will inform consultations with the social partners in a manner so as to contribute to effective resolution of this long-standing issue.

The Committee's recommendations

511. In the light of its foregoing conclusions, the Committee invites the Governing Body to approve the following recommendations:

- (a) The Committee regrets that the issue of the use of compulsory arbitration by the Government to end a legitimate strike and impose the terms of a collective agreement has arisen in the country on various occasions as attested by the previous complaints. The Committee urges the Government to continue to consult with the social partners regarding appropriate means of resolving strikes, including reducing recourse to compulsory arbitration. The Committee trusts that the research initiated by the Government will be concluded expeditiously and will inform consultations with the social partners in a manner so as to contribute to effective resolution of this long-standing issue.
- (b) The Committee considers that this case is closed and does not call for further examination.

Case No. 3440

Report in which the Committee requests to be kept informed of developments

**Complaint against the Government of Peru
presented by
the General Confederation of Workers of Peru (CGTP)**

Allegations: The complainant organization alleges the violation of freedom of association as a result of the arrest of a trade union leader during a national strike

- 512.** The complaint is contained in a communication from the General Confederation of Workers of Peru (CGTP) dated 9 February 2023.
- 513.** The Government sent its observations in communications dated 12 September 2023 and 15 April 2025.
- 514.** Peru has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the Labour Relations (Public Service) Convention, 1978 (No. 151).

A. The complainant's allegations

- 515.** The complainant organization alleges that the Government violated the right to freedom of association and failed to comply with Article 3 of Convention No. 87 by arbitrarily and disproportionately arresting its Human Rights Secretary, Mr Ernesto Fausto Tapia Chávez (hereinafter the CGTP Human Rights Secretary), during a strike in 2023.
- 516.** The complainant organization maintains that, on 1 February 2023, it submitted a communication to the competent authority of the Ministry of Labour and Employment Promotion (MTPE) regarding a general and indefinite strike called to begin at midnight on 9 February 2023. The complainant organization claims that, although the assessment of the legality of the strike was still under deliberation by the labour administration, given that it had been ruled on only in the first administrative instance, the law enforcement agencies abused their authority against workers exercising their right to strike and arbitrarily arrested the CGTP Human Rights Secretary in the early hours of 9 February in the city of Pucallpa (department of Ucayali).
- 517.** The complainant organization states that the arrest of its Human Rights Secretary is part of a series of arbitrary arrests of social leaders by the National Police and the Armed Forces, which have been a constant feature of the various civic protests against the current presidential regime. Furthermore, the complainant organization points out that it is not consistent with the rule of law for law enforcement agencies to arrest rank-and-file workers and their union leaders. In its complaint, the complainant organization requests that the Government be required to report on the existence of directives from the National Police and/or the Armed Forces regarding the arrest of trade union leaders exercising their right to strike, to put in place mechanisms instructing the National Police to respect the right to strike and to guarantee freedom of expression for all workers and citizens who exercise it.

B. The Government's reply

- 518.** In its communication dated 12 September 2023, the Government conveys the information provided by the Ministry of the Interior and the Public Prosecutor's Office in relation to the alleged arrest of the complainant organization's Human Rights Secretary.
- 519.** In official communication No. 3755-2023-COMASGEN PNP/SEC-UMITRDOC, the Ministry of the Interior reports that the aforementioned union leader was arrested in the early hours of 9 February 2023 on suspicion of committing a breach of the peace (rioting) during the mobilization of small vehicles in a convoy (national strike) through the main streets of the city of Pucallpa, a protest staged by the complainant organization and other regional trade union movements. According to the information provided by the Ministry: (i) a group of demonstrators, led by the CGTP Human Rights Secretary and another individual, blocked the entrance to a food market, citing their right to force businesses to close, as some farmers and traders were going about their daily business and were not observing the national strike; (ii) despite police instructions and the fact that their orderly and peaceful passage had been arranged, the demonstrators did not comply with what had been agreed, prompting a riot police unit to intervene in order to clear the roads and allow access to the food market; and (iii) the unit had to resort to increasing force to remove the demonstrators, and it was in this context that the union leader and the other individual were arrested. The Ministry of the Interior also reports that the arrest was communicated by telephone to a representative of the Public Prosecutor's Office, namely the Provincial Deputy Prosecutor of the First Provincial Corporate Criminal Prosecutor's Office of Callería, and that both detainees were handed over to the First Provincial Prosecutor's Office of Coronel Portillo on 10 February 2023.

- 520.** In official communication No. 4428-2023-MP-FN-SEGFIN, the Public Prosecutor's Office reports that the First Provincial Corporate Criminal Prosecutor's Office of Coronel Portillo-Segundo is in charge of investigating case No. 3006014501-2023-163 against the CGTP Human Rights Secretary for alleged rioting. The Service also reports that the union leader was released on 10 February 2023 by decision of the Provincial Deputy Prosecutor of the First Provincial Corporate Criminal Prosecutor's Office of Callería.
- 521.** By a communication dated 15 April 2025, the Government forwards information from the Public Prosecutor's Office indicating that case No. 3006014501 2023 163 has given rise to an indictment by the First Provincial Prosecutor's Office of Coronel Portillo.

C. The Committee's conclusions

- 522.** *The Committee notes that, in the present case, it is alleged that the right to freedom of association was violated as a result of the arrest of Mr Ernesto Fausto Tapia Chávez, the Human Rights Secretary of the complainant organization (hereinafter the CGTP Human Rights Secretary), during a strike in 2023.*
- 523.** *The Committee notes the complainant organization's claim that the law enforcement agencies arbitrarily and disproportionately arrested its Human Rights Secretary in the early hours of 9 March 2023 in the city of Pucallpa (department of Ucayali) during a general and indefinite strike called by the complainant organization. The Committee notes the complainant organization's assertion that the arrests of rank-and-file workers and their union leaders by the National Police and the Armed Forces are not consistent with the rule of law and that the arrest of its Human Rights Secretary is part of a series of arrests of social leaders in the context of civic demonstrations against the current presidential regime.*
- 524.** *The Committee also takes note of the information communicated by the Government, which indicates that the CGTP Human Rights Secretary and another individual were arrested on the date and at the place specified on suspicion of committing a breach of the peace (rioting). According to this information: (i) a group of demonstrators, allegedly under the leadership of the aforementioned secretary, blocked the entrance to a food market in the city because some farmers and traders inside were not observing the national strike; (ii) despite police instructions and the fact that their orderly and peaceful passage had been arranged, the demonstrators did not comply with what had been agreed, prompting the intervention of a riot police unit and the subsequent arrest of the union leader and the other individual; (iii) the police reported the arrest to a representative of the Public Prosecutor's Office, namely the Provincial Deputy Prosecutor of the First Provincial Corporate Criminal Prosecutor's Office of Callería, and both detainees were handed over to the First Provincial Prosecutor's Office of Coronel Portillo on 10 February 2023; (iv) on the same date, the union leader was released by order of the aforementioned representative of the Public Prosecutor's Office; and (v) an investigation was opened against him for alleged rioting (case No. 3006014501-2023-163) under the direction of the aforementioned Prosecutor's Office of Coronel Portillo-Segundo, the case being under indictment.*
- 525.** *The Committee takes due note of the information provided by the parties, in particular regarding the arrest of the complainant organization's Human Rights Secretary on suspicion of rioting (blocking roads and the entrance to a food market) during a general and indefinite strike called in 2023 by the complainant organization. The Committee notes that, although the Government reports that the union leader was released the day after his arrest, the complainant organization alleges that his detention was arbitrary and disproportionate. In this regard, the Committee observes that, according to the release order submitted by the Government, the prosecutor responsible considered that the requirements for imposing a measure as burdensome as pretrial detention on the CGTP*

Human Rights Secretary were not met since, among other reasons, there was no strong, well-founded evidence for reasonably believing that he had committed a crime, and it was necessary to carry out further investigations into the circumstances of his arrest and to determine whether he had made prior arrangements to riot during the strike. The Committee notes the Government's assertion that a prosecutor's investigation is under way against the CGTP Human Rights Secretary for the rioting allegedly committed during the strike. In this respect, the Committee recalls that, while persons engaged in trade union activities or holding trade union office cannot claim immunity in respect of the ordinary criminal law, the arrest of, and criminal charges brought against, trade unionists may only be based on legal requirements that in themselves do not infringe the principles of freedom of association [see **Compilation of decisions of the Committee on Freedom of Association**, sixth edition, 2018, para. 133]. The Committee also recalls that no one should be deprived of their freedom or be subject to penal sanctions for the mere fact of organizing or participating in a peaceful strike and that criminal sanctions may only be imposed if during a strike violence against persons or property or other infringements of common law are committed for which there are provisions set out in legal instruments and which are punishable thereunder [**Compilation**, paras 971 and 972]. The Committee also recalls that the police authorities should be given precise instructions so that, in cases where public order is not seriously threatened, people are not arrested simply for having organized or participated in a demonstration [**Compilation**, para. 230]. The Committee emphasizes that judicial proceedings related to union matters must be carried out without undue delay to ensure the effective protection of freedom of association. The Committee trusts that the remedies still pending resolution in this case will be resolved as soon as possible. The Committee requests the Government to provide information on the outcome of the penal action related to the participation of the complainant organization's Human Rights Secretary in the 2023 strike.

The Committee's recommendations

- 526. In the light of its foregoing conclusions, the Committee invites the Governing Body to approve the following recommendations:**
- (a) **The Committee requests the Government to provide information on the outcome of the penal action related to the participation of the Human Rights Secretary of the General Confederation of Workers of Peru (CGTP) in the 2023 strike.**
 - (b) **The Committee requests the Government to give precise instructions to the police authorities so that, in cases where public order is not seriously threatened, people are not arrested simply for having organized or participated in a demonstration.**

Case No. 2254

Interim report

Complaint against the Government of the Bolivarian Republic of Venezuela presented by

- the International Organisation of Employers (IOE) and
- the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS)

Allegations: (i) acts of harassment, stigmatization and intimidation towards employers' leaders and their organizations, including acts of violence against them; and (ii) the public authorities' marginalization and exclusion of the employers' organization FEDECAMARAS from decision-making processes, thereby excluding social dialogue, tripartism and, more generally, consultations on the adoption of social and economic decisions

- 527.** The Committee last examined this case (presented in March 2003) at its March 2023 session and on that occasion presented an interim report to the Governing Body [see 401st Report, paras 672 to 697, approved by the Governing Body at its 347th Session (March 2023)].¹³
- 528.** The Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS) presented additional information in a communication dated 3 March 2025.
- 529.** The Government sent observations in communications dated 27 April 2023 and 14 April 2025.
- 530.** The Committee recalls that various recommendations of the Commission of Inquiry – appointed by the Governing Body in the light of the complaint made under article 26 of the ILO Constitution by various Employers' delegates to the 104th Session of the International Labour Conference against the Bolivarian Republic of Venezuela, and mandated to examine the country's non-observance of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), among other Conventions – refer to issues raised in the present case. The Committee observes that the Commission of Inquiry established in its report that, in the light of the gravity of the issues raised, the situation and the progress achieved on its recommendations should be the subject of active supervision by the ILO supervisory bodies concerned. Given the gravity and persistence of the matters involved in this case, the Committee requested the Government to send its observations in relation to its previous recommendations and in the light of the relevant recommendations of the Commission of Inquiry, so that it might pursue its examination of the case with full knowledge of the facts. The Committee observes that the Governing Body, at each of its sessions, discusses the periodic progress report on developments concerning the social dialogue forum set up to give

¹³ [Link to previous examination.](#)

effect to the recommendations of the Commission of Inquiry with respect to the Government of the Bolivarian Republic of Venezuela.

- 531.** The Bolivarian Republic of Venezuela has ratified Convention No. 87 and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. Previous examination of the case

- 532.** In its previous examination of the case at its March 2023 meeting, the Committee made the following recommendations [see 401st Report, para. 697]:

- (a) The Committee requests the Government to provide detailed information on: (i) the specific results of the social dialogue forum, as follow-up to the recommendations of the Commission of Inquiry; (ii) the measures taken to generate a climate of trust based on respect for employer and trade union organizations with a view to promoting stable industrial relations; and (iii) the measures taken to ensure that the processes of dialogue and tripartite consultation comply with the formalities recommended by the Commission of Inquiry and other ILO supervisory bodies. The Committee expects to receive information from the Government without delay on the specific actions taken in this regard and as follow-up to the plan of action updated in the framework of the social dialogue forum.
- (b) Emphasizing once again that the absence of acts of harassment, stigmatization and intimidation and a climate of trust based on respect for employers' and trade union organizations are prerequisites for consultation processes, the Committee firmly urges the Government to immediately take all action necessary to establish the said effective mechanism for tripartite consultations in accordance with the information laid out in the present conclusions. The Committee expects to receive information from the Government without delay on the specific action taken in this regard.
- (c) The Committee requests the Government to provide information on the follow-up given to the treatment of the allegations of discrediting and intimidation presented by FEDECAMARAS in its communications to the Governing Body of 14 May and 1 September 2022 and in accordance with the plan of action agreed in the framework of the social dialogue forum.
- (d) The Committee once again strongly urges the Government to adopt all necessary measures to: (i) end immediately and prevent all acts of hostility and intimidation against FEDECAMARAS, so that it may exercise its representative activities in full freedom; (ii) ensure that the necessary foundations for genuine social dialogue in the country are established; and (iii) give effect to the measures agreed in the plan of action agreed in a tripartite setting and updated in the social dialogue forum with a view to achieving the expected results defined in the plan of action. The Committee expects to receive information from the Government without delay on the specific action taken in this regard.
- (e) The Committee once again urges the Government and all competent authorities to take all necessary measures without delay to ensure that all of the instigators and perpetrators of the attacks examined in this case are identified and appropriately punished and to ensure that any compensation measures sought by the victims of those attacks are applied. The Committee expects to receive information from the Government without delay on progress made in this regard.
- (f) As regards the criminal investigations into the leaders of a meat processing company and a supermarket chain, the Committee once again urges the competent authorities to: (i) make every effort to expedite the judicial proceedings that are still under way; and (ii) duly and fully take into account the employers' right to freely exercise their representative activities. The Committee once again requests the Government to keep it informed in this regard.

- (g) The Committee encourages the Government to, in accordance with the process under way before the competent bodies of the Organization, continue to take all necessary measures without delay to fully comply with the recommendations of the Commission of Inquiry. The Committee requests the Government to keep it informed of specific measures adopted to comply with the plan of action agreed in the social dialogue forum regarding the implementation of the recommendations of the Commission of Inquiry and the decisions of the Governing Body, and relating to this case.
- (h) The Committee draws the special attention of the Governing Body to the extremely serious and urgent nature of this case.

B. Additional information from the complainant

- 533.** In a communication dated 3 March 2025, FEDECAMARAS claims that despite the efforts made, serious failures to implement the recommendations of the Commission of Inquiry persist, such as: (i) the use of Workers' Production Councils as mechanisms to curtail the exercise of freedom of association and entrepreneurial autonomy; (ii) the lack of compensation and resolution of cases of expropriation of land without due compensation to the lawful owners, including employers directly affected; and (iii) the absence of the support from an expert on social dialogue decided by the Governing Body at its 352nd Session of October–November 2024.
- 534.** FEDECAMARAS indicates that while it acknowledges some progress on the issues raised in the case, such as the cessation of acts of intimidation and persecution against its leaders and the favourable resolution of criminal charges against the leaders of a meat processing company and a supermarket chain, who have been released, such progress is insufficient while the key recommendations remain outstanding. In view of the above, it underscores the urgent need for the active presence of a representative of the Director-General to ensure effective follow-up to the resolutions of the Governing Body and of the Commission of Inquiry. FEDECAMARAS maintains that the presence of such a representative would not only strengthen the implementation of existing commitments but would, further, contribute to building genuine and effective social dialogue in the country.

C. The Government's reply

- 535.** In its communications dated 27 April 2023 and 14 April 2025, the Government indicates that while this case is closely related to the proceedings of the Commission of Inquiry, having given rise thereto, the Government has not accepted the recommendations made by the Commission. Nevertheless, the Government indicates that the allegations originally made in this case, which subsequently became part of the report of the Commission of Inquiry, have led to significant progress, which has been recognized by the complainants and by the Governing Body.
- 536.** With regard to *recommendation (a)* (follow-up given to the plan of action of the social dialogue forum and measures taken to generate a climate of trust based on respect for employers' and trade union organizations with a view to promoting stable industrial relations and to ensure that the processes of dialogue and tripartite consultation comply with the formalities recommended by the Commission of Inquiry and other ILO supervisory bodies), the Government indicates that it has promoted and bolstered social dialogue with stakeholders from the world of work, highlighting in this regard that sessions of the social dialogue forum were held in 2022 and 2023 with the participation of various organizations, including FEDECAMARAS. The Government underscores that it considered the interest of several organizations, including FEDECAMARAS, in participating in various tripartite consultations held by the National Assembly on laws that directly or indirectly impact the world of work. The

Ministry of People's Power for the Social Process of Labour (MPPPST) served as facilitator of the consultation processes within the framework of collaboration between the public authorities. The Government adds that a decision was made at the highest political level to include employers' organizations in the National Council on the Productive Economy.

537. With regard to *recommendation (b)* (the Committee emphasized that the absence of acts of harassment, stigmatization and intimidation and a climate of trust based on respect for employers' and trade union organizations are prerequisites for consultation processes, and firmly urged the Government to immediately take all action necessary to establish the said effective mechanism for tripartite consultations), the Government denies that the alleged acts of harassment and intimidation by the Government against the aforementioned organization or any other organization occurred, and indicates that FEDECAMARAS took part in the various forums for meeting and social dialogue held in 2021 and 2022.
538. As regards *recommendations (c) and (d)* (follow-up given to the treatment of the allegations of discrediting and intimidation presented by FEDECAMARAS in its communications to the Governing Body of May and September 2022, and the need to end immediately and prevent all acts of hostility and intimidation against FEDECAMARAS), the Government indicates that the State continually provides spaces for social dialogue with all organizations; that the stigmatization, harassment or intimidation of any person or employers' or workers' organizations is not the Government's policy; and that the holding of several sessions of the social dialogue forum is evidence of this.
539. With respect to *recommendation (e)* (the Committee urged the Government to ensure that the instigators and perpetrators of the attacks examined in this case are identified and appropriately punished and to ensure that any compensation measures sought by the victims of those attacks are applied), the Government indicates that it sent information on this matter in 2018 and that it will keep the Committee apprised of the outcome of the investigations.
540. Regarding *recommendation (f)*, on the criminal proceedings initiated against the leaders of a meat processing company and a supermarket chain, the Government indicates that: (i) it is awaiting updated information on the status of the criminal proceedings initiated against the leaders of the meat processing company; and (ii) the precautionary measure of temporary seizure imposed on the supermarket chain at the time by the National Authority for the Defence of Socio-Economic Rights was revoked and the establishments are operating normally.
541. The Government states that the assessments made by FEDECAMARAS with respect to the impact of Workers' Production Councils on freedom of association and entrepreneurial autonomy are unfounded. In this regard, it recalls that, to date, no complaint has been lodged with the competent national bodies concerning negative or adverse impacts attributable to this form of workers' organization. In addition, the Government indicates that this specific issue was addressed at the most recent meeting between the highest authority of the MPPPST and the President of FEDECAMARAS. On that occasion, the ministerial authority reiterated that Workers' Production Councils did not curtail freedom of association or entrepreneurial autonomy. Furthermore, the Government urged FEDECAMARAS to continue collaboration on this matter and invited it to participate actively in the consultation and discussion process taking place during the drafting of the implementing regulations for the Constitutional Act on Workers' Production Councils.
542. With regard to cases of expropriation of land, the Government indicates that: (i) it has been working with FEDECAMARAS in the social dialogue forum and, as a result of joint efforts, some of these cases have been resolved; (ii) with regard to pending land cases, the Government

expresses its intent to continue holding meetings with FEDECAMARAS and National Land Institute (INTI) authorities with the aim of gradually implementing the relevant solutions, and indicates that it is expecting tangible progress in the remaining cases; and (iii) it undertakes to continue to move towards consensus on the formulation of policies that benefit the country's livestock organizations, recognizing them as a vital part of the primary sector of the national economy.

- 543.** With reference to the observation made by FEDECAMARAS concerning the absence of the support from an expert in social dialogue, the Government indicates that while it is open and willing to continue to receive support and technical assistance from the expert in social dialogue, as it has indicated to the ILO Governing Body, such support must take into account the country's needs and improve on traditional approaches by switching to creative, dynamic approaches and scenarios, adapted to current technological realities, that are beneficial for all.

D. The Committee's conclusions

- 544.** *The Committee recalls that, in the context of this case, it has been examining since 2004 serious allegations of violations of freedom of association relating notably to: (i) acts of harassment, stigmatization and intimidation towards employers' leaders and their organizations, including acts of violence against them; and (ii) the public authorities' marginalization and exclusion of the employers' organization FEDECAMARAS from decision-making processes, thereby excluding social dialogue, tripartism and, more generally, consultations on the adoption of social and economic decisions.*
- 545.** *The Committee recalls that, during the previous examination of the case, it requested the Government to provide information on the specific results of the social dialogue forum set up to give effect to the recommendations of the Commission of Inquiry and the measures taken to generate a climate of trust based on respect for employers' and trade union organizations and to ensure that the processes of dialogue and tripartite consultation comply with the formalities recommended by the Commission of Inquiry and other ILO supervisory bodies (independent chairperson or secretariat, recording of minutes, agreed timetable of meetings and follow-up mechanisms on compliance with agreements) (recommendation (a)). The Committee notes that, in this respect, the Government claims to have taken a series of measures to promote dialogue and consultation with stakeholders from the world of work and drew attention to the sessions of the social dialogue forum that took place between April 2022 and February 2023, at which a plan of action comprising a timetable of activities in connection with this case was adopted, as well as the various tripartite consultations held by the National Assembly on laws that directly or indirectly impact the world of work.*
- 546.** *The Committee notes that, at its 349th, 350th 352nd and 353rd Sessions (October–November 2023, March 2024, October–November 2024 and March 2025, respectively), the Governing Body examined developments concerning the social dialogue forum set up to give effect to the recommendations made by the Commission of Inquiry, and observes that these discussions show that: (i) between November 2023 and February 2024, an ILO special adviser on social dialogue supported the country in the implementation of the plan of action adopted at the social dialogue forum of February 2023; (ii) the fourth session of the forum was held on 1 and 2 February 2024 and the plan of action was updated at that session; and (iii) between March and November 2024, several meetings were held at which the Government and the workers' and employers' organizations participating in the social dialogue forum, including FEDECAMARAS, assessed compliance with the various Conventions covered by the report of the Commission of Inquiry.*

- 547.** *The Committee welcomes the holding of the fourth session of the social dialogue forum, more than a year ago, and the more than a dozen meetings that took place in the country in 2024. Nevertheless, the Committee observes that, according to the Governing Body's report of October–November 2024, the employers' and workers' organizations that participated in these meetings indicated that there were persistent deficiencies in the consultations concerning the Conventions on fixing the minimum wage and the consultations to promote the implementation of international labour standards, and that, as several consultations were arranged without a prior agenda, no minutes were recorded and no measures to be taken on the issues subject to dialogue and the expected results were defined, the consultation must be improved and made effective as a matter of urgency. Several of the organizations also proposed opening a channel of communication with the National Assembly through the MPPPST to follow up on legislation and bills concerning economic, social and labour issues.*
- 548.** *The Committee notes that, at its most recent session in March 2025, the Governing Body urged the Government, with utmost urgency, to redouble its efforts to accelerate further the implementation of all commitments made in the action plan in order to achieve tangible and measurable results without any further delay, in particular with regard to those areas where no progress has been made. Furthermore, the Governing Body invited the Government to organize the fifth social dialogue forum at the earliest opportunity and urged the Government to take immediate steps to facilitate the presence of the ILO special adviser in the country. The Committee notes the emphasis placed by FEDECAMARAS on the urgent need for the support and active presence of the Special Adviser on Social Dialogue in order to ensure effective follow-up to the recommendations of the Commission of Inquiry and the decisions of the Governing Body and further notes that while the Government expresses openness to continuing support from the Adviser, it indicates that this should be achieved by means of non-traditional formats without having submitted a specific proposal on how to implement this form of assistance.*
- 549.** *In view of the above, the Committee requests the Government to provide detailed information on: (i) the holding of the fifth session and next sessions of the social dialogue forum and the specific results of those sessions, as follow-up to the recommendations of the Commission of Inquiry; and (ii) the specific measures taken to generate a climate of trust based on respect for employers' and trade union organizations with a view to promoting stable industrial relations and to ensure that the processes of dialogue and tripartite consultation are genuine, effective and comply with the aforementioned formalities recommended by the Commission of Inquiry and other ILO supervisory bodies. The Committee strongly encourages the Government to avail itself of technical assistance from the Office in this respect, especially through in-person assistance from the ILO special adviser on social dialogue.*
- 550.** *As for recommendation (b), on the treatment of the allegations of discrediting and intimidation presented by FEDECAMARAS in 2022, and recommendations (c) and (d), on the need to end immediately and prevent all acts of hostility and intimidation against FEDECAMARAS, so that it may exercise its representative activities in full freedom, the Committee notes that the Government denies that acts of harassment and intimidation against the aforementioned organization or any other organization occurred, and emphasizes that FEDECAMARAS took part in the various social dialogue meetings held in 2022 and 2023. The Committee also notes that, according to FEDECAMARAS, while the acts of intimidation and persecution against leaders of their federation have ceased, this progress is insufficient while the Commission of Inquiry's key recommendations, detailed below, remain outstanding.*
- 551.** *While reaffirming once again that, as indicated in the report of the Commission of Inquiry, the rights of workers' and employers' organizations can only be exercised in a climate that is free from violence, pressure or threats of any kind against the leaders and members of these organizations, and it is for*

governments to ensure that this principle is respected [see **Compilation of decisions of the Committee on Freedom of Association**, sixth edition, 2018, para. 84], the Committee takes due note of the information relating to the cessation of acts of intimidation and persecution against leaders of FEDECAMARAS and expects them to be able to exercise their representative activities in an environment of freedom and respect for their rights.

552. With respect to recommendation (e), on the adoption of measures to ensure that all of the instigators and perpetrators of the attacks on FEDECAMARAS leaders and on the organization's headquarters (*set out in the 2021 examination of the case*) examined by the Committee are identified and appropriately punished, and that any compensation measures sought by the victims of the attacks are applied, the Committee notes the Government's indication that it sent information on this matter in 2018 and that it will keep the Committee apprised of the outcome of the investigations. The Committee recalls that, in its previous examination of this case, it noted with great concern that the Government had not provided any new information on the serious allegations mentioned above since the publication of the report of the Commission of Inquiry. Recalling once again that, in cases of physical or verbal violence against workers' and employers' leaders and their organizations, the absence of judgments against the guilty parties creates, in practice, a situation of impunity, which reinforces the climate of violence and insecurity, and which is extremely damaging to the exercise of trade union rights [see **Compilation**, para. 108], the Committee refers to its earlier recommendations and firmly urges the Government and all competent authorities to take all necessary measures without delay to ensure that all of the instigators and perpetrators of the attacks examined in the present case are identified and appropriately punished and to ensure that any compensation measures sought by the victims of the attacks are applied. The Committee requests the Government to provide specific information on progress made in this respect.
553. Lastly, regarding recommendation (f), on the criminal investigations into the leaders of a meat processing company and a supermarket chain (the Committee had requested the Government to inform it of the outcome of the Prosecutor's Office's appeal against the judicial decision to close the investigations), the Committee notes the Government's indication that: (i) it expects to receive updated information on the status of the proceedings relating to the meat processing company; and (ii) the precautionary measure of temporary seizure imposed on the supermarket chain was withdrawn and the establishments are operating normally, thus complying with judgment No. 2018-00432 of 2018, handed down by the Second Administrative Disputes Court. The Committee also notes the information provided by FEDECAMARAS concerning the favourable resolution of criminal charges against the leaders of a meat processing company and a supermarket chain. On the basis of this information, the Committee will not continue its examination of this aspect of the case.
554. The Committee further notes that, while FEDECAMARAS acknowledges some progress on the issues raised in the present case, such as those mentioned above, it also claims that serious failures to comply with the recommendations of the Commission of Inquiry persist, such as: the use of Workers' Production Councils as mechanisms to curtail the exercise of freedom of association and entrepreneurial autonomy; and (ii) the lack of resolution in cases of expropriation of land. The Committee notes the Government's indication, for its part, that: (i) no complaints were lodged concerning the negative impacts of Workers' Production Councils and that this topic was addressed at meetings of the forum and in meetings between the MPPPST and FEDECAMARAS, during which FEDECAMARAS was invited to participate in the consultation processes related to the drafting of the implementing regulations for the Workers' Production Councils Act; and (ii) progress has been made in the resolution of some land cases and work will continue to implement solutions in the remaining cases.

- 555.** *Lastly, the Committee notes that in the plan of action updated at the fourth session of the social dialogue forum, in February 2024, it was agreed to hold meetings at the request of the interested parties on the activity of Workers' Production Councils and their possible interference in freedom of association and, also, to strengthen the relationship between the INTI and FEDECAMARAS concerning the cases raised, with a view to their resolution. The Committee expects the Government to redouble its efforts to ensure the implementation of all commitments made in the plan of action and requests it to provide specific information on progress achieved in this regard, including in relation to Workers' Production Councils and cases of expropriation of land.*

The Committee's recommendations

- 556.** In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:
- (a) The Committee requests the Government to provide detailed information on: (i) the holding of the fifth session and next sessions of the social dialogue forum and the specific results of those sessions, as follow-up to the recommendations of the Commission of Inquiry; and (ii) the specific measures taken to generate a climate of trust based on respect for employers' and trade union organizations with a view to promoting stable industrial relations and to ensure that the processes of dialogue and tripartite consultation are genuine, effective and comply with the formalities recommended by the Commission of Inquiry and other ILO supervisory bodies. The Committee strongly encourages the Government to avail itself of technical assistance from the Office in this respect, especially through in-person assistance from the ILO special adviser on social dialogue.
 - (b) The Committee expects the leaders of FEDECAMARAS to be able to exercise their representative activities in an environment of freedom and respect for their rights.
 - (c) The Committee firmly urges the Government and all competent authorities to take all necessary measures without delay to ensure that all of the instigators and perpetrators of the attacks examined in this case are identified and appropriately punished and to ensure that any compensation measures sought by the victims of those attacks are applied. The Committee requests the Government to provide specific information on progress made in this respect.
 - (d) The Committee expects the Government to redouble its efforts to ensure the implementation of all commitments made in the plan of action and requests it to provide specific information on progress achieved in this regard, including in relation to Workers' Production Councils and cases of expropriation of land.
 - (e) The Committee draws the special attention of the Governing Body to the serious and urgent nature of this case.

Geneva, 5 June 2025

(Signed) Professor Evance Kalula
Chair

Points for decision:

paragraph 149
paragraph 165
paragraph 188
paragraph 213
paragraph 251
paragraph 280
paragraph 300
paragraph 321

paragraph 349
paragraph 406
paragraph 439
paragraph 469
paragraph 511
paragraph 526
paragraph 556