

Information supplied by governments on the application of ratified Conventions

Guatemala

Convention No. 87

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Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Guatemala (ratification: 1952). The Government has provided the following written information.

Progress with regard to implementation of the roadmap, as follow-up to the complaint concerning non-observance of Convention No. 87 made under article 26 of the ILO Constitution

Investigations of murders and convictions handed down to date

The Government of Guatemala reiterates its concern at the actions perpetrated on the victims. It is continuing the relevant investigations with the aim of fully elucidating the facts and circumstances surrounding the murders of the trade union members and leaders, identifying the perpetrators and securing convictions in accordance with the law.

In March 2017, at the 329th Session of the Governing Body, the Government of Guatemala reported on **15** court rulings. Since then, the Special Investigation Unit for Crimes against Trade Unionists has reported the following progress: **three** court convictions; **one** acquittal; **four** persons undergoing criminal prosecution proceedings; **two** arrest warrants put into effect; and **one** termination of criminal prosecution proceedings. Moreover, the Special Investigation Unit has made investigations to establish and individually identify the suspected perpetrators of the crimes, including the following procedures: statements by indirect and immediate witnesses, statements by victims, collection of evidence, audio-visual evidence, property searches, inspections, examination of property records and expert reports. It should be noted that no anti-union motives were established in any of the 18 cases; nevertheless, we are committed to giving the necessary protection to any trade unionists that require it.

Note should also be taken of the undertaking given by the Ministry of Labour and Social Welfare, which meets periodically with the authorities of the Public Prosecutor's Office and the International Commission against Impunity in Guatemala (CICIG), to follow up the collaboration between these institutions.

Risk assessments for all trade union leaders and members under threat; assignment of corresponding protection measures

The Ministry of the Interior has reported that between January and May 2017 it received 20 requests for security measures, in relation to which the Risk Assessment Department of the Personal Protection and Safety Division of the National Civil Police undertook the corresponding investigations; as a result, the 20 requested protection measures were granted.

Requests for security measures made by the Public Prosecutor's Office pursuant to the "Protocol for the implementation of immediate and preventive security measures for trade union leaders and members and labour rights activists", issued in January 2017

Since January 2017, the Public Prosecutor's Office, through the Special Investigation Unit for Crimes against Trade Unionists, has requested the Ministry of the Interior to issue **14** preventive security measures for trade union leaders and members, and has asked the National Civil Police to issue **eight** perimeter security measures.

Report on the free 1543 emergency helpline for receiving complaints of violence or threats against human rights advocates

Since January 2017, the Ministry of the Interior has reported that none of the calls received on the 1543 emergency helpline were connected with trade union leaders or members. Accordingly, with a view to informing the trade union sector of the free helpline and to promote appropriate use thereof, a campaign has been launched to publicize through social media the 1543 emergency helpline for the protection of trade unionists.

Moreover, the Ministry of the Interior has established dialogue forums (the "**Unit for the analysis of attacks against human rights advocates**") and the "**Standing trade union round table on comprehensive protection**"), which meet periodically and discuss the cases reported by trade unions and ensure the corresponding follow-up by the competent bodies. These dialogue forums seek to address in a timely fashion violations against freedom of association or the physical integrity of trade union leaders and members.

In addition, these dialogue forums have been used to raise awareness among the trade unions of the "Protocol for the implementation of immediate and preventive security measures for trade union leaders and members and labour rights activists".

Strengthening of institutions

The Government of Guatemala recognizes the importance of the commitments entered into through the ratification of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). Accordingly, the Chief Public Prosecutor/Head of the Public Prosecutor's Office issued instructions that the corresponding action should be taken to strengthen the Special Investigation Unit for Crimes against Trade Unionists, which

currently comprises **19 staff members** and operates within the structure of the Human Rights Prosecutor's Office, with the addition of **three prosecution offices**.

Creation of special tribunals to deal with crimes involving freedom of association

Since the promulgation of Decree No. 21-2009 of the Congress of the Republic (Law on Criminal Jurisdiction in High-Risk Proceedings), the State of Guatemala has had the following judicial structure: **four** Courts for High-Risk Proceedings, **one** Court of Appeal for High-Risk Proceedings in the capital, and **two** Sentencing Tribunals, where proceedings may be heard in cases of offences committed against the lives of trade unionists.

In this regard, the Public Prosecutor's Office can submit a request at any time for the Criminal Chamber of the Supreme Court of Justice to consider the circumstances and allocate such proceedings to be heard by the Courts for High-Risk Proceedings.

It should be pointed out that the convictions recently obtained by the Public Prosecutor's Office in the cases of **Mr William Leonel Retana Carias** and **Mr Manuel de Jesús Ortiz Jiménez** were handed down by the Sentencing Tribunals for High-Risk Proceedings, following the recommendation of the ILO Committee of Experts.

Legislative reforms

On 16 March 2017, at an ordinary plenary sitting of members of the Congress of the Republic, Decree No. 7-2017 (Bill 5198) was passed, reforming Decree No. 1441 (Labour Code); it came into force on 6 June 2017. The fact that the text passed by Congress was the result of an agreement between trade union and employers' organizations in the country is considered a historic event. With the entry into force of this legislation, inspection procedures have been established in law, including the potential for sanctions in the event of failure to apply labour standards, thereby guaranteeing that the State of Guatemala will act to foster a culture of compliance with labour rights and obligations.

With respect to Bill No. 5199, the Ministry of Labour appreciates the fact that the ILO Committee of Experts on the Application of Conventions and Recommendations has observed with interest the Bill submitted to the Congress of the Republic on 27 October 2016, as it addresses the majority of the Committee's previous comments.

On 9 May 2017, a session of the Labour Committee of the Congress of the Republic was held, in which the employer, worker and government sectors took part, following agreement by the bipartite constituents to submit their agreements and conclusions to the Committee. The government sector endorsed its support for bipartite dialogue and is fully disposed to participate in discussions as and when requested by the constituents, taking into account the fact that the Congress of the Republic, through the chairman of the Labour Committee, has set a specific date for receiving agreements, after eight months have elapsed, during which time Congress has granted various extensions in response to requests from workers and employers for additional time.

The Ministry of Labour and Social Welfare is confident that this Bill will be passed in the near future and that it includes all the additional elements referred to by the Committee of Experts in its report to the 105th Session of the International Labour Conference.

Registration of trade unions

The Ministry of Labour and Social Welfare, through the Directorate-General for Labour, receives requests for trade union registration and recognition of legal personality. In this respect, a total of **84** trade union organizations were registered in 2016; in 2017, a total of **26** trade unions have been registered so far. With regard to reforming the procedures for trade union registration, the Ministry of Labour and Social Welfare has created a dialogue forum, within which an agenda has been agreed, including items proposed by trade union organizations.

Handling and settlement of disputes relating to freedom of association and collective bargaining by the Dispute Settlement Committee

At a meeting of the Tripartite Committee on International Labour Affairs held on 18 May 2017, the Ministry of Labour and Social Welfare submitted the terms of reference for consultations on the evolving functions of the Dispute Settlement Committee, which were drafted with support from the Office of the Representative of the ILO Director-General. In this regard, the sectors agreed to hold the consultations in question and to send in their observations.

In addition, the members of the Dispute Settlement Committee are planning to hold a workshop on “self-evaluation by the Committee” in the next few days.

Awareness-raising campaign on freedom of association and collective bargaining

Efforts to raise awareness have been stepped up as part of “Freedom of association and collective bargaining for a better country”, especially with media bosses, columnists, commentators, journalists, and public relations managers from the three branches of State.

The campaign continues to be promoted through official websites and the social media feeds of the state bodies, as well as through interviews on government media and the distribution of posters and flyers to visitors and trade union leaders at the various institutions.

Furthermore, there are plans for training on freedom of association and collective bargaining to be provided with the textile and *maquila* (export-processing) sector, with support from the Office of the Representative of the ILO Director-General.