

Committee on the Application of Standards

Date: 19 May 2024

Governments appearing on the list of individual cases have the opportunity, if they so wish, to supply written information to the Committee.

► Information on the application of ratified Conventions supplied by governments on the list of individual cases

Algeria (ratification: 1962)

Right to Organise and Collective Bargaining Convention, 1948 (No. 98)

The Government has provided the following written information.

The Government notes the comments of the Committee of Experts, which emphasize that Algeria regularly provides detailed information in reply to the observations made by trade unions, and in reply to the Committee's recommendations.

Articles 1 and 2 of the Convention

The principles of the Convention are enshrined in the Algerian Constitution of 2020 and the labour legislation, allowing trade union organizations to exercise their rights freely. The revised Constitution of 2020 reaffirms these principles, including protection against discrimination, freedom of expression, the right to organize and the right to strike.

The labour laws of 1990 set out the rights of representation, collective bargaining, workers' participation and the free exercise of the right to organize without discrimination. Moreover, Algeria has made significant progress in relation to social dialogue, collective bargaining and respect for fundamental labour rights, and it regularly complies with its reporting obligations in accordance with its international commitments.

With regard to the allegations of anti-union threats and dismissals affecting persons who claim to be affiliated to the Trade Union Confederation of Productive Workers (COSYFOP), it is important to note that this Confederation and its three affiliated organizations (the SNSTF, SNSAE and SNSCDPP) have ceased all trade union activities since 1991.

In its reports on the effect given to the recommendations of the Committee on Freedom of Association (communication No. 224 of 14 April 2024), the Government has regularly provided information on the COSYFOP and its affiliated organizations, indicating that they have never provided the necessary information for the assessment of their trade union representativeness or the renewal of their executive bodies.

As the complainants have not provided any proof of their status as members, these allegations are without legal standing. The Government therefore calls for the closure of all the cases related to complaints by the alleged trade union leaders and delegates of the COSYFOP.

Sections 133 to 147 of Act No. 23-02

In accordance with sections 133 to 147 of Act No. 23-02, the labour inspection services received 32 complaints from trade union delegates during the course of 2023, of which 26 were in the public sector and six in the private sector.

Following the registration of these complaints, the labour inspectorate undertook 32 investigations with employers, resulting in five warnings, three compliance notices, four violation reports and two situation reports.

The action taken by labour inspectors led to the retraction of four penalties imposed by employers, including the cancellation of a dismissal. Moreover, 24 complaints were found to be without merit by the labour inspectors responsible for the investigations. Sixteen other complaints were made by trade union delegates to conciliation offices, resulting in 15 reports of the failure of conciliation, and one complaint is still being processed.

Act No. 23-02: The protection of trade union leaders during the period of the registration of the union

Act No. 23-02 contains provisions protecting trade union leaders and members against discrimination and reprisals, thereby ensuring a conducive environment for their activities from the holding of the constituent general assembly of the union. It includes enforceable measures against any hindrance to the establishment or operation of a trade union. Any person who hinders these processes is liable to a sentence of imprisonment of between three and six months and a fine of between 50,000 and 100,000 Algerian dinars (section 156).

The Government is prepared to examine complaints by trade union delegates in accordance with the legislation that is in force and to engage, where necessary, in consultations with the social partners to improve trade union representativeness and protection.

Section 8 of Act No. 23-02: Protection against interference

Act No. 23-02, in section 8, prohibits any external interference in the functioning of trade unions, except in the circumstances envisaged in the law, in order to protect their independence and autonomy. The exception provided for in section 8 is related to section 49, which provides that gifts and legacies from external sources are only acceptable with the prior agreement of the administrative authorities. The authorities verify the origin, amount and compatibility of these contributions with trade union objectives.

Sections 8 and 49 therefore guarantee that unions operate in full independence and in accordance with the law, by ensuring the legitimacy of financial contributions and maintaining the trust of the members.

Section 69 of Act No. 23-02

In response to the observations by the Committee of Experts concerning section 69 of Act No. 23-02, it should be noted that the criteria of financial transparency and political neutrality are requirements newly introduced by the Act.

In this regard, the Government wishes to specify as follows:

- The criterion of financial transparency was introduced with a view to ensuring the robust and transparent management of the financial resources of trade unions, including the contributions made by their members.

Under the terms of sections 46 to 49 of the Act, the resources of trade unions include the contributions paid by their members, income from their activities, gifts and legacies, and subsidies by the State and local communities. This income must be used solely for the objectives of the trade union and in accordance with the respective legal provisions.

Sections 50 to 52 set out the requirement for them to maintain their accounts in accordance with the commercial standards in force and to submit annually to the authorities their financial balances certified by an auditor and the report on their activities, as adopted by the General Assembly.

Accordingly, in order to meet this criterion of financial transparency, unions are required to comply with the above directives and rules, which are intended to ensure the integrity and credibility of the unions in their function of representing workers. They favour transparency of financial governance and ensure the appropriate management of trade union funds by requiring financial reports and compliance with the accounting and managerial standards in force.

Furthermore, this criterion is intended to strengthen the trust of members in their representative organizations and also contributes to the prevention of potential conflicts and disputes, which have often characterized the management of many trade unions and been brought before the competent jurisdictions.

- With reference to political neutrality, this criterion is intended to prevent any partisan political influence within trade unions, with a view to maintaining their independence and their capacity to represent in an equitable manner the interests of all their members.

This political independence of trade unions guarantees that the decisions taken really reflect the collective interests of the workers, irrespective of their political beliefs and affiliation, while at the same time respecting the political and partisan freedom of choice of each member, as set out in section 12 of Act No. 23-02, which provides that “the members of the trade union shall be free in an individual capacity to join political parties”.

Accordingly, the criterion of financial transparency and political neutrality are intended to ensure that representative trade unions use their financial resources exclusively for trade union activities in accordance with their statutes. That ensures that no financial resources are used for partisan political action.

- With reference to the voting strength in occupational elections, it should be noted that this provision responds to a claim put forward for several years by the unions active in the administrative sector (the public service).

Section 35 of Act No. 90-14 on the procedures for the exercise of the right to organize, which has now been repealed, provided that: “Workers’ trade unions with a membership of at least 20 per cent of the total number of employees covered by the statutes of those trade unions and/or a representation of at least 20 per cent on the participation committee, where the latter exists within the employing organization concerned, shall be considered to be representative in the same employer entity.”

However, this option could only be used in public or private sector enterprises, as this body (the participation committee), composed of elected staff delegates, was not present in administrative establishments.

Accordingly, section 69 of the new Act offers an advantage to trade unions which cannot meet the criterion of the unionization rate of 25 per cent of the total number of salaried employees covered by their statutes, by enabling them to obtain the status of a representative union when they achieve the voting strength determined in the event of occupational elections in the employing organization (election of joint committees in public institutions and administrations).

The Government re-emphasizes that the draft text of Act No. 23-02 was subject to very broad consultation before being forwarded for approval.

In the first place, in 2022, a prior consultation was held with the trade unions registered at the national level, including 53 workers' organizations and 11 employers' organizations, with a view to gathering their proposals and views on the revision of the legal framework governing the exercise of trade union rights. A second consultation was then held with the most representative trade unions, which commented on the provisions of the Bill, with most of the comments being taken into account during its drafting.

The Government reiterates its commitment to inclusive and constructive social dialogue with a view to assessing the effectiveness of the measures introduced by law and improving the current legislation.

The Government takes due note of the observations made by the Committee of Experts and once again emphasizes that the draft text of Act No. 23-02 was subject to very broad consultation during all the stages of its drafting, adoption and promulgation.

That served to show that the exhaustive information requested through an electronic platform, provided exclusively by trade unions, makes it possible to achieve a better assessment, in a transparent manner, of the representativeness of a trade union.

With reference to the concerns raised, it should be noted that the information gathered is protected by law. It will in no event be shared with employers and cannot be used for the purposes of anti-trade union discrimination.

Renewal of the representativeness of trade unions

With reference to the number of reports received each year of refusal, renewal, and appeals and their outcomes, it should be noted that, as the Act is recent, and the majority of the mandates of trade unions have not expired, this information is not yet available.

Trade unions are currently engaged in the process of providing information for the assessment of their representativeness through the electronic platform, in accordance with Act No. 23-02 and Decree No. 23-359 of 17 October 2023, determining the procedures for the assessment of the representativeness of trade unions and the content of the statistical indicators of their membership.

Article 4 of the Convention: Promotion of collective bargaining

With reference to this recommendation, and in the event that the trade union does not have the information on which its representativeness is to be assessed, workers can elect their representatives directly for the purposes of collective bargaining and the settlement of

collective labour disputes. Section 131 of Act No. 23-02 provides for protection against the dismissal or termination of these elected representatives.

Application of the Convention in practice

With regard to the provision of statistics on collective bargaining, the table below summarizes the evolution of the collective accords and agreements registered by the labour inspection services (2021–24).

Year	Enterprise agreements		Entreprise accords		Branch agreements		Branch accords	
	Number	Coverage	Number	Coverage	Number	Coverage	Number	Coverage
2021	46	12369	436	336636	–	–	–	–
2022	46	95180	494	438561	03	7465	10	12494
2023	82	168860	406	932331	08	20585	47	10419
2024	23	12245	159	160329	–	–	35	80017
Total	197	288654	1495	1.867.857	11	28050	92	102930