



Governing Body

353rd Session, Geneva, 10–20 March 2025

Legal Issues and International Labour Standards Section

LILS

International Labour Standards and Human Rights Segment

Date: 3 March 2025

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First item on the agenda

Proposed form for reports requested under article 19 of the ILO Constitution in 2026

Termination of Employment Convention (No. 158) and Recommendation (No. 166) 1982

Purpose of the document

In this document, the Governing Body is invited to request governments to submit reports under article 19 of the ILO Constitution on the Termination of Employment Convention (No. 158) and Recommendation (No. 166), 1982, with a view to the preparation of a General Survey by the Committee of Experts on the Application of Conventions and Recommendations in 2026 and its discussion by the Conference Committee on the Application of Standards in 2027. The Governing Body is invited to approve the corresponding report form (see the draft decision in paragraph 6).

Relevant strategic objective: Employment.

Main relevant outcome: Output 1.2. Increased capacity of constituents to drive effective application of international labour standards.

Policy implications: None.

Legal implications: None.

Financial implications: The usual implications related to the preparation of a General Survey.

Follow-up action required: Implementation of the Governing Body's decision

Author unit: International Labour Standards Department (NORMES).

Related documents: [GB.349/LILS/2](#), [GB.349/PV\(Rev.1\)](#).

1. At its 349th Session (October–November 2023), the Governing Body had before it a document concerning the choice of Conventions and Recommendations on which reports should be requested under article 19 of the ILO Constitution in 2026, with a view to the preparation of the annual General Survey in 2026 by the Committee of Experts on the Application of Conventions and Recommendations, for discussion by the Conference Committee on the Application of Standards in 2027.¹
2. The Governing Body decided that the General Survey to be prepared by the Committee of Experts in 2026 and submitted to the International Labour Conference in 2027 should focus on the Termination of Employment Convention (No. 158) and Recommendation (No. 166), 1982.²
3. In the discussions, it was suggested that the General Survey could bring attention to these instruments, identify States that apply them in their national law and practice, identify possible obstacles to ratification and provide valuable information for the discussion on these instruments by the Standard Review Mechanism in 2027. It was expressed that a General Survey presented an opportunity to unlock the full potential of employment security standards in times of need, particularly in a world facing economic stagnation, rising unemployment and the COVID-19 pandemic recovery.
4. The Governing Body therefore requested the Office to prepare, for its consideration at its 353rd Session (March 2025), a draft report form for the General Survey concerning Convention No. 158 and Recommendation No. 166.
5. The proposed report form is based on the provisions of the selected instruments, taking into account the views expressed by the Governing Body at its 349th Session and is submitted for its consideration and approval (see appendix).

► Draft decision

6. **The Governing Body:**
 - (a) **requested governments to submit reports for 2026, under article 19 of the ILO Constitution, on the Termination of Employment Convention (No. 158) and Recommendation (No. 166), 1982;**
 - (b) **approved the report form concerning the instruments set out in the appendix to document GB.353/LILS/1.**

¹ GB.349/LILS/2.

² GB.349/PV(Rev.1), para. 1021.

► Appendix

Proposed form for the reports to be submitted under article 19 of the ILO Constitution on Convention No. 158 and Recommendation No. 166

Appl. 19

C.158

R.166

INTERNATIONAL LABOUR OFFICE

REPORTS ON
UNRATIFIED CONVENTIONS AND RECOMMENDATIONS

*(article 19 of the Constitution of the
International Labour Organisation)*

REPORT FORM FOR THE FOLLOWING INSTRUMENTS:

**Termination of Employment Convention (No. 158) and
Recommendation (No. 166), 1982**

Geneva

2026

Article 19 of the Constitution of the International Labour Organization relates to the adoption of Conventions and Recommendations by the Conference, as well as to the obligations resulting therefrom for the Members of the Organization. The relevant provisions of paragraphs 5, 6 and 7 of this article read as follows:

5. In the case of a Convention:

...

(e) if the Member does not obtain the consent of the authority or authorities within whose competence the matter lies, no further obligation shall rest upon the Member except that it shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of its law and practice in regard to the matters dealt with in the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement or otherwise and stating the difficulties which prevent or delay the ratification of such Convention.

6. In the case of a Recommendation:

...

(d) apart from bringing the Recommendation before the said competent authority or authorities, no further obligation shall rest upon the Members, except that they shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice in their country in regard to the matters dealt with in the Recommendation, showing the extent to which effect has been given, or is proposed to be given, to the provisions of the Recommendation and such modifications of these provisions as it has been found or may be found necessary to make in adopting or applying them.

7. In the case of a federal State, the following provisions shall apply:

(a) in respect of Conventions and Recommendations which the federal Government regards as appropriate under its constitutional system for federal action, the obligations of the federal State shall be the same as those of Members which are not federal States;

(b) in respect of Conventions and Recommendations which the federal Government regards as appropriate under its constitutional system, in whole or in part, for action by the constituent states, provinces or cantons rather than for federal action, the federal Government shall:

...

(iv) in respect of each such Convention which it has not ratified, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states, provinces or cantons in regard to the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement, or otherwise;

(v) in respect of each such Recommendation, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states, provinces or cantons in regard to the Recommendation, showing the extent to which effect has been given, or is proposed to be given, to the provisions of the Recommendation and such modifications of these provisions as have been found or may be found necessary in adopting or applying them.

In accordance with the above provisions, the Governing Body of the International Labour Office examined and approved the present report form. This has been drawn up in such a manner as to facilitate the supply of the required information on uniform lines.

REPORT

to be made no later than XXX, in accordance with article 19 of the Constitution of the International Labour Organization by the Government of, on the position of national law and practice in regard to matters dealt with in the instruments referred to in the following questionnaire.

Employers' and workers' organizations may send comments no later than XXX.

* * *

Context and scope of the questions

At its 349th Session (October–November 2023), the Governing Body had before it a document concerning the choice of Conventions and Recommendations on which reports should be requested under article 19 of the ILO Constitution in 2026, with a view to the preparation of the annual General Survey in 2026 by the Committee of Experts on the Application of Conventions and Recommendations, for discussion by the Conference Committee on the Application of Standards in 2027.¹

The General Survey will provide an opportunity to carry out a comprehensive overview of the current state of law and practice with reference to employment termination around the world while drawing attention to the selected instruments, identifying potential obstacles impeding ratification and providing valuable information for the discussion on those instruments by the Standard Review Mechanism in 2027.

* * *

The following report form contains questions based on the relevant provisions of the Termination of Employment Convention (No. 158) and Recommendation (No. 166), 1982.

¹ GB.349/PV(Rev.1), paras 992–1021.

I. Methods of implementation and definitions

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| 1. Please indicate whether provisions concerning termination of employment are established by one or more of the following methods: (a) legislation (laws or regulations); (b) collective agreements; (c) work rules; (d) arbitration awards; (e) court decisions; or (f) other methods of implementation. If so, please provide links to or copies of the said legislation and the texts of relevant sample agreements or awards and of leading court decisions. | Art. 1 of the Convention and Para. 1 of the Recommendation |
| 2. Please provide information on whether and how “termination of employment” ¹ is defined at the national level. Please indicate whether this definition covers the termination of the employment relationship at the initiative of the employer. | Art. 3 of the Convention and Para. 4 of the Recommendation |

II. Scope and exclusions

Scope

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| 3. Please provide information on whether and how it is ensured, under national legislation or practice, that provisions concerning termination of employment extend to:
(a) all branches of economic activity; and
(b) all employed persons. | Art. 2(1) of the Convention and Para. 2(1) of the Recommendation |
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Exclusions based on the nature of the contract of employment and on the categories of workers

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| 4. Please specify whether the following categories of employed persons are excluded fully or partially from all or some of the provisions established in national legislation or practice as regards termination of employment:
(a) workers engaged under a contract of employment for a specified period of time or a specified task. Please clarify, where applicable, how “contracts of employment for a specific period of time” and “contracts of employment for a specified task” are defined;
(b) workers serving a period of probation or a qualifying period of employment, determined in advance and of reasonable duration. If applicable, please indicate the duration of such periods and whether they are determined in advance;
(c) workers engaged on a casual basis for a short period. Where relevant, please provide the definition of “workers engaged on a casual basis”, as per national legislation or practice. | Art. 2(2)(a)–(c), (4), (5) and (6) of the Convention and Para. 2(2)(a)–(c), (3) and (4) of the Recommendation |
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¹ Please note that, pursuant to Article 3 of the Convention, in the present questionnaire, the terms “termination” and “termination of employment” mean termination of employment at the initiative of the employer.

5. Please indicate whether other categories of employed persons are excluded fully or partially from the provisions concerning termination of employment. If so, please specify:
- (a) whether categories of employed persons whose terms and conditions of employment are governed by special arrangements are excluded from these provisions. If so, please indicate the nature of the exclusion, and whether these special arrangements provide protection at least equivalent to that afforded by national legislation or practice;
 - (b) whether any other limited categories of employed persons have been excluded due to special problems of a substantial nature arising in the light of their specific employment conditions or the size or nature of the undertaking;
 - (c) whether organizations of employers or workers concerned – where such exist – were consulted.

Safeguards against the use of fixed-term contracts, the aim of which is to avoid protection

6. Please indicate whether adequate safeguards exist against the use of contracts of employment for a specified period of time (fixed-term contracts) as a means to avoid protections concerning termination of employment provided under the national legislation or practice. If such safeguards are in place, please provide details on:
- (a) the maximum allowed duration of fixed-term contracts;
 - (b) restrictions on the use of fixed-term contracts, including whether these restrictions limit their use to situations where the employment relationship cannot be of indeterminate duration due to: (i) the nature of the work to be performed; (ii) the circumstances under which the work is carried out; or (iii) the interests of the worker;
 - (c) the conditions under which fixed-term contracts may be considered as contracts of employment of indeterminate duration;
 - (d) the maximum number of renewals allowed before fixed-term contracts are deemed contracts of employment of indeterminate duration;
 - (e) any additional guarantees or measures in place to limit the use of fixed-term contracts.
- Art. 2(3) and (5) of the Convention and Para. 3 of the Recommendation

III. Obligation for termination of employment to be justified by a valid reason

The need for a valid reason

7. Please indicate whether there is a principle of general application regarding the need to base termination of employment on a valid reason in the national methods of application. If applicable, please provide details on:
- (a) whether the national legislation explicitly prohibits termination of employment without a valid reason;
 - (b) which are the valid reasons for termination and how they are defined, indicating whether these definitions relate to:
 - (i) the capacity of the worker (e.g., lack of necessary skills or qualities or poor performance not caused by intentional misconduct or incapacity to perform work as a result of illness or injury);
 - (ii) the conduct of the worker (e.g., inadequate performance of duties or improper behaviour);
 - (iii) the operational requirements of the undertaking, establishment or service (e.g., economic, technological, structural or similar reasons).
- Art. 4 of the Convention

Invalid reasons for termination of employment

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| <p>8. Please indicate whether the national legislation or other methods of implementation consider the following criteria as not constituting a valid reason for termination of employment:</p> <ul style="list-style-type: none"> (a) union membership or participation in union activities outside working hours or, with the employer's consent, within working hours; (b) seeking office as, or acting or having acted in the capacity of, a workers' representative; (c) filing a complaint or participating in proceedings against an employer involving alleged violations of laws or regulations, or recourse to competent administrative authorities; (d) race; (e) colour; (f) sex; (g) marital status; (h) family responsibilities; (i) pregnancy; (j) religion; (k) political opinion; (l) national extraction; (m) social origin; (n) absence from work during maternity leave; (o) age, subject to national law and practice regarding retirement; (p) absence from work due to compulsory military service or other civic obligations, in accordance with national law and practice. | <p>Art. 5(a)–(e) of the Convention and Para. 5(a) and (b) of the Recommendation</p> |
| <p>9. Please indicate whether national methods of implementation specify that temporary absence from work due to illness or accident is not a valid reason for termination. If so, please provide details on:</p> <ul style="list-style-type: none"> (a) how "temporary absence from work" is defined; (b) the extent to which medical certification is required; (c) any limitations placed on the application of the above. | <p>Art. 6(1) and (2) of the Convention and Para. 6(1) and (2) of the Recommendation</p> |

IV. Procedures relating to termination of employment		
Procedure prior or at the time of termination		
10. Please indicate whether national legislation or practice provide workers the opportunity to defend themselves when their employment is terminated for reasons related to (i) their conduct; or (ii) their performance, unless the employer cannot reasonably be expected to provide this opportunity. If such an opportunity exists in national legislation or practice, please provide details on situations in which the employer cannot be reasonably expected to provide such opportunity.		Art. 7 of the Convention
11. Please provide information on how termination of employment for misconduct of a worker is regulated under national law or practice. If applicable, please specify whether:		Paras 7 and 10 of the Recommendation
(a) misconduct must be repeated on one or more occasions to justify dismissal, unless the employer provides the worker appropriate written warning;		
(b) employers are deemed to have waived their right to terminate the employment of a worker for misconduct if they fail to act within a reasonable period after becoming aware of the misconduct.		
12. Please provide information on how termination of employment for unsatisfactory performance of the worker is regulated under national law or practice. Please specify whether employers are obligated to:		Para. 8 of the Recommendation
(a) provide appropriate instructions to the worker.		
(b) issue a written warning outlining the unsatisfactory performance and set a reasonable period of time for improvement.		
13. Please indicate whether, under national legislation or practice, workers are entitled to be assisted by another person when defending themselves against allegations regarding their own conduct or performance that may lead to termination of employment. If so, please provide information on how this right is regulated.		Para. 9 of the Recommendation
14. Please indicate whether, under national legislation or practice, employers are required to:		Paras 11 and 12 of the Recommendation
(a) consult workers' representatives before a final decision is taken on individual cases of termination of employment;		
(b) notify workers in writing of a decision to terminate their employment.		
Procedure of appeal against termination		
15. Please indicate whether, under national legislation or practice, workers who consider that their employment has been unjustifiably terminated have the right to appeal against that termination to a court, labour tribunal, arbitration committee, arbitrator or other impartial body. If so, please provide information on:		Art. 8(1), (2) and (3) of the Convention and Para. 15 of the Recommendation
(a) whether the right to appeal is limited when termination has been authorized by a competent authority;		
(b) any applicable time limits within which workers must exercise their right to appeal after termination;		

- (c) efforts by public authorities, workers' representatives and organizations of workers to ensure that workers are fully informed of the possibilities of appeal at their disposal. If so, please provide information on the nature and the impact of such measures.

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| 16. Please indicate whether the body or bodies mentioned in Question 15 are empowered to: | Art. 9(1) and (3) of the Convention |
| <ul style="list-style-type: none"> (a) examine the reasons provided for the termination; (b) examine other circumstances related to the case; (c) render a decision on whether the termination was justified; (d) determine, in cases where termination is stated as due to operational requirements, whether the termination was indeed for these reasons. If so, please specify whether the body or bodies can also assess whether these reasons are sufficient to justify the termination. | |
| 17. Please indicate whether the body or bodies referred to in Question 15, are empowered to order the payment of adequate compensation or other appropriate relief when they find termination unjustified and are not empowered or do not find it practicable per national law and practice to declare it invalid and/or order or propose reinstatement. If so, please specify how such compensation is determined or what such relief consists of. | Art. 10 of the Convention |
| 18. Please indicate whether, under the national legislation or practice, it is ensured that the worker does not bear alone the burden of proving that the termination was unjustified by one or the other or both of the following possibilities: | Art. 9(2)(a) and (b) of the Convention |
| <ul style="list-style-type: none"> (a) the burden of proving the existence of a valid reason for the termination rests on the employer; (b) the conclusion by the body or bodies referred to in Question 15 regarding the reason for termination is reached based on evidence provided by the parties and according to procedures outlined in national law and practice. | |
| 19. Please indicate whether there is a conciliation procedure under national legislation or practice before or during appeal proceedings against termination of employment. If so, please provide information on how this procedure functions. | Para. 14 of the Recommendation |

V. Period of notice and certificate of employment

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| 20. Please indicate whether, under national legislation or practice, a worker whose employment is to be terminated is entitled to a reasonable period of notice or compensation in lieu thereof, unless guilty of serious misconduct. If so, please provide details on: | Art. 11 of the Convention and
Para. 16 of the Recommendation |
| <ul style="list-style-type: none"> (a) how "period of notice" is defined, its duration, and the content of the compensation in lieu of notice; (b) how "serious misconduct" is defined for this purpose; (c) whether, during the period of notice, workers are entitled to a reasonable time off without loss of pay for the purpose of seeking other employment, taken at times convenient to both parties. | |

21. Please indicate whether workers whose employment has been terminated are entitled to:
- (a) receive, upon request, a certificate from the employer specifying only the dates of their own engagement and termination, as well as the type or types of work performed;
- (b) receive, at their request, an evaluation of their own conduct and performance included in the certificate of employment or provided in a separate certificate.
- Para. 17 of the Recommendation

VI. Severance allowance and other income protection

22. Please provide information on the content of the benefits a worker whose employment has been terminated is entitled to. Please indicate whether such benefits include:
- (a) a severance allowance or other separation benefits. Please indicate also if : (i) the amount is based on the length of service, wage level, or other criteria; and whether (ii) they are paid directly by the employer or through a fund constituted by employers' contributions;
- (b) benefits from unemployment insurance or assistance or other forms of social security (such as old-age or invalidity benefits);
- (c) a combination of such allowance and benefits.
- Art. 12(1)(a)–(c), (2) and (3) of the Convention and Para. 18(1)(a)–(c) and (2) of the Recommendation.
23. Please indicate whether national legislation and practice provide for the loss of entitlement to the allowances or benefits referred to in Question 22 in the event of termination for serious misconduct.
- Art. 12(3) of the Convention and Para. 18(3) of the Recommendation

VII. Termination of employment for economic, technological, structural or similar reasons

24. Please provide information on the legislation, collective agreements, arbitration awards, court decisions or other methods of implementation relevant to termination of employment for economic, technological, structural or similar reasons. If available, please provide relevant legislation, agreements, or court decisions illustrating how these provisions are applied in practice.
- Arts 1, 13 and 14 of the Convention
25. Please provide information on how termination of employment for reasons of an economic, technological, structural or similar nature is defined in national methods of implementation, where applicable.
- Arts 1, 13 and 14 of the Convention

Information and consultation of workers' representatives

26. Please indicate whether, in cases of termination of employment for economic, technological, structural or similar reasons, the employer has the obligation to provide the workers' representatives recognized as such by national law or practice,² in good time with relevant information. In particular, please indicate:
- (a) whether such information must include: (i) the reasons for the contemplated terminations; (ii) the number and categories of workers likely to be affected; and (iii) the period over which the terminations are intended to be carried out;
 - (b) whether the obligation is limited to a specific number or percentage of the workforce and, if so, please indicate the specific number or percentage.
27. Please indicate whether in accordance with national law and practice, in cases of terminations of employment for reasons of an economic, technological, structural or similar nature, the employer has the obligation to provide the workers' representatives concerned, as early as possible, with an opportunity for consultation on: (i) measures to be taken to avert or to minimize the terminations; and (ii) measures to mitigate the adverse effects of any terminations on the workers concerned such as finding alternative employment. If so, please indicate:
- (a) how the opportunity for consultation is provided, how far in advance of the contemplated terminations it must be given, and the objects of such consultation;
 - (b) whether the obligation is limited to a specific number or percentage of the workforce and, if so, please specify the number or percentage.
28. Please indicate whether, in cases where the employer contemplates the introduction of major changes in production, programme, organization, structure or technology likely to result in terminations, the employer has to consult, as early as possible, the workers' representatives recognized as such by national law or practice, on: (i) the introduction of such changes; (ii) their likely effects; and (iii) the measures to avert or mitigate the adverse effects of such changes. If so, please specify when employers need to provide the relevant information.

Measures to avert or minimize termination and mitigate its impact

29. Please provide information, where applicable, on the nature and impact of measures taken in the context of such terminations:
- (a) to avert or minimize terminations. Please indicate whether such measures include any of the following: restriction of hiring, spreading workforce reduction over time to allow natural reduction of the workforce, internal transfers, training and retraining, voluntary early retirement with appropriate income protection, restriction of overtime and reduction of normal hours of work;
 - (b) to mitigate the impact of the terminations. Please indicate whether such measures include:

² The term the "workers' representatives concerned" means the workers' representatives recognized as such by national law or practice, in conformity with the Workers' Representatives Convention, 1971 (No. 135) (Art. 13(3) of Convention No. 158 and Para. 20(3) of Recommendation No. 166).

- (i) measures by the competent authority, in collaboration with the employer and the workers' representatives concerned, to place the workers affected in suitable alternative employment as soon as possible, with training or retraining; and
- (ii) income protection during training or retraining and reimbursement (partial or total) of expenses related to training or retraining and finding and taking up employment requiring a change of residence.

When applicable, please indicate whether the competent authority provides financial resources to support in full or part the measures referred in (ii).

Notification to the competent authority

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| <p>30. Please indicate whether, in cases of terminations for reasons of an economic, technological, structural or similar nature, the employer has the obligation, under national legislation or practice, to notify the competent authority as early as possible, providing relevant information. If so, please indicate:</p> <ul style="list-style-type: none"> (a) the competent authority or authorities for the purpose of notification; (b) the information required, including whether it must cover: (i) the reasons for the terminations; (ii) the number and categories of workers likely to be affected; and (iii) the period over which the terminations are intended to be carried out; (c) whether the obligation applies only to terminations of a specified number or percentage of the workforce and, if so, please specify; (d) the minimum period of advance notification required under national laws or regulations. | <p>Art. 14(1)–(3) of the Convention</p> |
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Criteria for selection for termination and priority of rehiring

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| <p>31. Please indicate whether, under national legislation or practice, the selection of workers whose employment is to be terminated for economic, technological, structural or similar reasons is based on established criteria. If so, please provide information on how these criteria give due weight to: (i) the interests of the undertaking, establishment or service; and (ii) to the interests of the workers.</p> | <p>Para. 23(1) and (2) of the Recommendation</p> |
| <p>32. Please indicate whether measures exist under national legislation and practice to ensure that workers terminated for economic, technological, structural or similar reasons are given a certain priority for rehiring if the employer hires workers with comparable qualifications. If so, please indicate:</p> <ul style="list-style-type: none"> (a) whether such priority is subject to the workers expressing a desire to be rehired within a given period after termination; (b) whether the priority in rehiring is limited in time; (c) whether national methods of implementation provide for: <ul style="list-style-type: none"> (i) the criteria for the priority in rehiring; (ii) the retention of rights (particularly seniority rights) in the event of rehiring; and (iii) the terms governing the wages of rehired workers. | <p>Para. 24(1)–(3) of the Recommendation</p> |

Statistical information

33. Please provide information on the manner in which the Convention is applied in practice, including, for example, available statistics on the activities of the bodies of appeal (such as the number of appeals against termination of employment, the outcome of such appeals, the nature of the remedy awarded and the average time taken for an appeal to be decided) and on the number of terminations for economic or similar reasons.

Impact of the instruments and prospects for ratification of Convention No. 158

34. Please indicate whether any modifications have been made or are envisaged to national laws, regulations or practice, with a view to giving effect to all or some of the provisions of the Convention No. 158 and Recommendation No. 166. If so, please provide links to or copies of the relevant texts.
35. Please provide information regarding any prospects of ratification and identify any challenges or obstacles with regard to the possible ratification of Convention No. 158, where these exist.

Article 23(2) of the Constitution

36. Please indicate the representative employers' and workers' organizations to which copies of the present questionnaire have been communicated in accordance with article 23(2) of the ILO Constitution and indicate whether you have received observations from such organizations concerning the effect given, or to be given, to Convention No. 158 and Recommendation No. 166. If so, please communicate a copy of the observations received together with any comments that you may consider useful.
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