



# Governing Body

355th Session, Geneva, 17–27 November 2025

## Institutional Section

INS

**Date:** 14 November 2025

**Original:** Spanish

Seventeenth item on the agenda

## Reports of the Officers of the Governing Body

### Second report: Complaint submitted under article 26 of the ILO Constitution alleging non-observance by Chile of Conventions Nos 87, 98, 135 and 151

1. In a letter dated 9 June 2025 and addressed to the President of the 113th Session of the International Labour Conference, Mr Edgar Moyo, two Workers' delegates submitted a complaint under article 26 of the ILO Constitution against the Government of Chile 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), the Workers' Representatives Convention, 1971 (No. 135), and the Labour Relations (Public Service) Convention, 1978 (No. 151). The letter was signed by two titular delegates: Mr Juan Gustavo Minaya Goñy (Peru) and Mr Alberto Enríque Reyes (Panama). The text of the complaint is attached (see appendix).
2. In a plenary sitting of that session of the Conference, the President of the Conference provided information on the complaint and stated that it would be addressed according to the applicable procedures.<sup>1</sup>
3. Article 26 of the ILO Constitution reads as follows:
  1. Any of the Members shall have the right to file a complaint with the International Labour Office if it is not satisfied that any other Member is securing the effective observance of any Convention which both have ratified in accordance with the foregoing articles.

<sup>1</sup> ILC.113/Record No. 4C, 13.

2. The Governing Body may, if it thinks fit, before referring such a complaint to a Commission of Inquiry, as hereinafter provided for, communicate with the government in question in the manner described in article 24.
  3. If the Governing Body does not think it necessary to communicate the complaint to the government in question, or if, when it has made such communication, no statement in reply has been received within a reasonable time which the Governing Body considers to be satisfactory, the Governing Body may appoint a Commission of Inquiry to consider the complaint and to report thereon.
  4. The Governing Body may adopt the same procedure either of its own motion or on receipt of a complaint from a delegate to the Conference.
  5. When any matter arising out of article 25 or 26 is being considered by the Governing Body, the government in question shall, if not already represented thereon, be entitled to send a representative to take part in the proceedings of the Governing Body while the matter is under consideration. Adequate notice of the date on which the matter will be considered shall be given to the government in question.
4. The complaint refers to Conventions that have been ratified by Chile and that remain in force in the country. Chile ratified Conventions Nos 87 and 98 on 1 February 1999, Convention No. 135 on 13 September 1999 and Convention No. 151 on 17 July 2000. These Conventions have therefore been in force in the country since 1 February 1999, 13 September 1999 and 17 July 2000, respectively.
  5. On the date of the filing of the complaint, the two signatories were Workers' delegates of their respective countries at the 113th Session of the Conference. Therefore, under article 26(4) of the ILO Constitution, those delegates were entitled to file a complaint if they were not satisfied that Chile had adopted measures to secure the effective observance of these four Conventions.
  6. It should be noted that a complaint alleging non-observance by Chile of the four aforementioned Conventions, as well as the Maternity Protection Convention (Revised), 1952 (No. 103), was submitted by a Workers' delegate at the 108th Session (2019) of the Conference.<sup>2</sup> In that regard, the Governing Body, at its 340th Session (October–November 2020), decided not to refer the matter to a Commission of Inquiry and to close the procedure under article 26 and invited the Government to continue reporting to the ILO regular supervisory system on measures taken to apply in law and practice the Conventions concerned.<sup>3</sup>
  7. Another complaint alleging non-observance of these five Conventions by Chile was submitted by a Workers' delegate at the 105th Session (2016) of the Conference.<sup>4</sup> In that regard, the Governing Body, at its 329th Session (March 2017), invited the Committee of Experts on the Application of Conventions and Recommendations to continue its examination of any pending issues concerning the application of the Conventions concerned and decided that the complaint would not be referred to a Commission of Inquiry and that, as a result, the procedure under article 26 of the ILO Constitution should be closed.<sup>5</sup>
  8. At this stage of the procedure, the Governing Body cannot discuss the merits of the complaint. If a Commission of Inquiry is appointed (a decision which the Governing Body may take in

<sup>2</sup> GB.337/INS/13/2.

<sup>3</sup> GB.340/INS/15(Rev.1) and GB.340/PV, para. 300.

<sup>4</sup> GB.328/INS/18/1.

<sup>5</sup> GB.329/INS/12(Rev.) and GB.329/PV, para. 231.

accordance with article 26(4) of the Constitution), the Governing Body will be requested to take measures only after the Commission of Inquiry has reported on the merits of the complaint.

9. In view of the foregoing, the Officers consider that the complaint is receivable in accordance with article 26 of the ILO Constitution and, without entering into the substance of the complaint, have agreed to refer the matter to the Governing Body.
10. In accordance with established practice, when the Governing Body appoints a Commission of Inquiry, the relevant matters before the various ILO supervisory bodies are referred to this Commission. Until a Commission of Inquiry is appointed, the supervisory bodies remain competent to consider the matters raised.
11. In accordance with article 26(5) of the Constitution, the Governing Body shall invite the Government of Chile to appoint a delegate to participate in the discussions of the Governing Body at the future sessions at which this matter is under consideration. When extending this invitation to the Government of Chile, the Director-General should inform it that the Governing Body plans to examine this matter at its 356th Session, which will take place in Geneva in March 2026.

## ► Draft decision

---

12. **As the conditions established in article 26 of the ILO Constitution appear to be fulfilled, the Governing Body, on the recommendation of its Officers, considered that the complaint was receivable and:**
  - (a) requested the Director-General to transmit the complaint to the Government of Chile, inviting it to communicate its observations on the complaint by 15 January 2026 and to appoint a representative to take part in the proceedings of the Governing Body concerning that matter at its future sessions, as well as informing the Government that the Governing Body would examine the matter at its 356th Session (March 2026);
  - (b) decided to place the item on the agenda of the 356th Session (March) of the Governing Body.



## ► Appendix

---

Geneva, 9 June 2025

Mr Edgar Moyo,  
President, 113th Session, International Labour Conference

Mr Tabai Belgacen,  
President, ILO Standards Committee,  
113th Session, International Labour Conference

Ms Corinne Vargha  
Director, International Labour Standards Department  
Officers of the Governing Body, International Labour Office

Ladies and gentlemen,

We, the undersigned, Mr Gustavo Minaya Goñy and Mr Alberto Enríque Reyes, Workers' delegates of the Republic of Peru and the Republic of Panama to the 113th Session of the International Labour Conference, hereby submit a representation under article 26(4) of the ILO Constitution against the Government of Chile and request the appointment of a Commission of Inquiry for Chile into the serious and repeated violations committed by the Government of Chile in relation to: 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 Workers' Representatives Convention, 1971 (No. 135).

Subject: Complaint relating to infringements of the right to collective bargaining and freedom of association, the protection of Worker representatives, and labour relations.

## Overview

In 1999, the National Congress of Chile approved the most important labour reform since the end of the dictatorship, which eliminated all workers' rights between 1973 and 1990.

This reform consisted of the ratification and approval of ILO Conventions Nos 87, 98 and 151 following extensive debate in Parliament, and was published as a Law of the Republic of Chile in the *Official Gazette* of 12 May 1999, under Supreme Decree No. 227 of the Ministry of Foreign Affairs. In other words, all the formalities for the full incorporation of the ratified Conventions into domestic law were completed and they were elevated to constitutional status in accordance with the provisions of the Chilean Constitution, article 5 of which states that it is the duty of all State bodies to respect and promote such rights.

ILO Conventions Nos 87, 98 and 135 therefore form part of the domestic legal system and have become law in Chile. Compliance with them is mandatory for employers, workers and governments, as it is with any other law, but these Conventions have constitutional status.

Subsequently, the same happened with other Conventions, including Convention No. 135, which have the highest status in Chilean law.

It follows that where there are contradictions between the Conventions and the Labour Code – and there are many – it is up to the Labour Directorate to take a position and clarify the correct interpretation of labour law, especially given that many standards conflict with the

ratified Conventions and must be implemented correctly, as highlighted by the Committee on Freedom of Association and the Standards Committee.

Unfortunately, since 1999 successive governments have chosen to hijack the workers' rights granted by the ILO Conventions.

Below is a concrete example of how Convention No. 98 is being violated in Chile:

Section 408 of the Labour Code, on the presentation made by federations and confederations:

Section 408. Presentation made by federations and confederations, content and general rules. Federations and confederations may – at any time and without being subject to procedural rules, and with the prior agreement of one or more employers or employers' associations – conclude agreements and/or pacts on special working conditions covered by this Code. However, federations or confederations that decide to engage in collective bargaining in accordance with the provisions of this section must submit a written proposal to their respective employers or trade union associations, for whom bargaining will always be voluntary. This does not mean that bargaining is voluntary per se, but instead that if an employer states that it will not engage in bargaining, the workers have no means by which to proceed with it. *[Translator's note: the translation of legislation in this document is not an official one].*

In other words, the right to collective bargaining is denied to higher-level workers' organizations by their members; however, Article 3 of ILO Convention No. 87 and Article 4 of Convention No. 98 express something quite different.

While it is true that workers can submit draft collective contracts to employers, the latter can refuse to bargain, and since workers who are members of trade union organizations have no protection, no trade union immunity and no right to strike, they cannot take the matter any further, because the employer or employers ultimately decide whether or not to engage in collective bargaining, and the same logic applies in section 314 of the Labour Code.

In other words, workers are deprived of the right to organize their activities and formulate their programmes because the authorities restrict this right and impede its lawful exercise. Furthermore, national legislation undermines higher-level organizations and applies the standards in such a way that the guarantees provided for in the ratified Conventions are completely eliminated.

We conclude that collective bargaining can only take place if federations and confederations are recognized as having the rights provided for in the Conventions and if both employers and incumbent governments grant workers the rights that have been withheld from them.

All this is happening in 2025, 26 years after the ILO Conventions were ratified. Despite various appeals made by the ILO supervisory bodies, successive Chilean governments, including the current one, have continued to violate those instruments. The Government persists in failing in its obligations to incorporate the content of the Conventions into the Constitution and domestic legislation and to apply them in practice.

In view of this situation – which is extremely detrimental to the organized workers of Chile in both the public and private sectors – and in an attempt to put an end to all the violations arising from domestic legislation and from the failure of administrative and judicial bodies to uphold the rights provided for in the Conventions, the Chilean organizations affiliated to the Autonomous Workers' Union of Chile (CAT) and the General Confederation of Public and Private Workers (CGTP), those affiliated and allied to the World Federation of Trade Unions (WFTU), and other trade union organizations in Chile, have requested successive governments to ensure the full application of the ratified Conventions, but so far this has not happened. Organizations affiliated to the CAT – including the CGTP through a direct request addressed to

the National Labour Director in January 2024 – have formally requested the current Government to align Chilean legislation with the ratified international Conventions given the many provisions in the Labour Code and other domestic legislation that violate the ILO Conventions, and have proposed that sections 52 and 53 of the Chilean Civil Code on the repeal of laws be applied so that the National Labour Director can proceed to tacitly repeal the sections, paragraphs and/or wording that contradict ILO Conventions Nos 87, 98, 135 and 151. Alternatively, this could be achieved by means of resolutions, rulings or decrees, as deemed appropriate, to establish the correct application of domestic law and adapt it to bring it into line with the ratified Conventions. Those instruments form part of Chile's legal framework, having been published as the Law of the Republic in the *Official Gazette* on 12 May 1999, and have constitutional status, as established in article 5 of the Constitution.

Article 5. Sovereignty resides essentially with the Nation. It is exercised by the people through plebiscites and periodic elections, as well as by the authorities established by this Constitution. No sector of the people or individual may claim its exercise.

The exercise of sovereignty recognizes as a limitation the respect for the essential rights that emanate from human nature. It is the duty of State bodies to respect and promote those rights, guaranteed by this Constitution as well as by the international treaties that have been ratified by Chile and are in force.

All the international Conventions to which we refer are in force.

Article 6 of the Constitution, meanwhile, refers to the conduct expected of State bodies:

Article 6. The actions of State bodies must be subject to the Constitution and to the standards in conformity therewith and must guarantee the institutional order of the Republic.

The incumbent officers of said bodies or members thereof, as well as all persons, institutions or groups, are bound by the precepts of this Constitution.

For this and other factual and legal reasons, we submit to this Conference and to the ILO our representation, which we know to be the most serious one before the ILO, in search of more robust decisions from the supervisory bodies because of the Government of Chile's persistent failure to observe both the ratified Conventions and the previous decisions and proposals of the supervisory bodies.

As the ILO is already aware, since it has been asking the Government of Chile through comments, demands and direct requests to revise, adjust, repeal or amend legal provisions that contravene the Conventions in consultation with social partners, it is clear that there are legal provisions that are not in line with the ratified Conventions and that systematically violate them, and that successive governments have been tone deaf to the ILO's requests.

The following unlawful and arbitrary actions of the Government of Chile, implemented through various State administrative bodies, form the basis of this complaint:

- 1.1. Discrimination against inter-enterprise trade unions in the construction industry owing to provisions of the Labour Code that violate ILO Convention No. 87.
- 1.2. Procedural flaws by labour inspectors in relation to collective bargaining, consisting of the issuance of unlawful and arbitrary decisions by the Labour Directorate.
- 1.3. Interference and obstruction by labour inspectors and the Labour Directorate.
- 1.4. Minimum services: violations, illegalities and arbitrariness with inconsistencies in the processing of requests for minimum services in sectors that are non-essential in the strict sense of the term; suspension of collective bargaining.

- 1.5. Misinterpretations and negligence in the accreditation of workers in collective bargaining.
- 1.6. Anti-union practices and violations of fundamental rights.
- 1.7. Violation of international standards and refusal to apply the ratified Conventions and adapt domestic standards that violate the ratified international Conventions.
- 1.8. Court judgments achieved through the persistence of workers' organizations, convicting companies of rights violations or anti-union practices, and State bodies' failure to comply.
- 1.9. Arbitrary and unlawful acts by labour inspectors that seriously harm trade unions through misconduct and poor decisions, in violation of ILO Conventions Nos 87, 98, 135 and 151.
- 1.10. Multinational companies using provisions of the Labour Code to dismiss trade union leaders from the CGTP.
- 1.11. Sanctions against public sector trade union leaders for fulfilling their duties as trade unionists and public servants to report poor practices.
- 1.12. Public sector workers suffering persecution and harassment by their superiors due to the arrogance of the latter and the passivity of State supervisory bodies.
- 1.13. Loss of labour rights, collective contracts, wage cuts and the annihilation of trade unions in the urban public passenger transport system in Santiago (RED) (formerly Transantiago).
- 1.14. Agrosuper engaging in anti-union practices, denying the right to regulated collective bargaining, imposing collective agreements and attempting to annihilate the Agrosuper workers' union (RSU No. 06040059).
- 1.15. Refusal by the authorities and employers to provide trade unions with the necessary means to carry out legitimate activities, including material means such as a legal domicile, adequate office space and facilities with electricity and telecommunications equipment suitable for holding large-scale meetings with members.
- 1.16. Denial of the right of national trade union organizations to participate in meetings in international and national tripartite forums; ending the privileging of one organization over others.

All of the above can be grouped into categories of serious violations of these fundamental ILO Conventions:

## **1. Discrimination against inter-enterprise trade unions in the construction industry owing to provisions of the Labour Code that violate ILO Convention No. 87**

### **I. Factual background**

- 1.1. The de jure and de facto discrimination against trade union organizations that are not enterprise unions is absolute, and there are discriminatory standards for other types of unions

For any given situation, there are different standards governing both the election of workers' representatives in enterprises and collective bargaining. For example, workers who opt for an enterprise or workplace union elect their representatives based on the number of members. If there are nine members, one representative is elected to perform all the functions of the enterprise trade union, including those of president, secretary and treasurer. If there are

between 25 and 249 members, there may be 3 representatives. If there are 250 or more members, there may be 5 representatives. If there are between 251 and 1,000 members, 7 leaders may be elected, and so on. However, if the workers are members of an inter-enterprise union or a union for temporary or casual workers, then different regulations apply. Section 228 states that an inter-enterprise union having between 8 and 50 members may elect 1 worker representative (a union delegate); between 51 and 70 members may elect 2 representatives; and 76 or more members may elect 3 representatives (union delegates). If there are 250 members, only 3 representatives may be elected. This provision of the Labour Code is a clear violation of Convention No. 87 that must be rectified by the Government of Chile.

As the ILO is already aware, the Government of Chile persists in its legislation and in practice in discriminating against branch or inter-enterprise unions, as well as those in the construction industry and those representing casual and temporary workers, and this now extends to women food workers who prepare meals for students in Chile. The latter are discriminated against because of the way they organize (in branch unions) and in recent years the exercise of their rights under the international Conventions ratified in 1999 has been persistently obstructed. This discrimination against food workers has been ongoing since 2017. Their right to bargain collectively with different enterprises has been obstructed, the bargaining process has been annulled, and restrictions have been placed on the right to strike through the granting of minimum services to the enterprises in question, even though they are in non-essential sectors in the strict sense of the term. This constitutes a violation of the right to strike.

All these organizations are branch unions and none of them have the right to engage in bargaining regarding their working conditions and terms of employment at branch level, with the full rights and the prerogatives granted to them by Conventions Nos 87 and 98. It is well known that the Government allows collective bargaining to be undertaken only by enterprise or workplace unions and does not allow branch unions to bargain with appropriate protection for participants and the right to strike, as indicated by the jurisprudence of the Committee on Freedom of Association and the Standards Committee. This constitutes a violation of Convention No. 98. Although legislation on the issue has long been proposed, we remain unaware of any draft law that would resolve the matter.

Although all sectors can form trade unions, branch (inter-enterprise) unions are not allowed to bargain collectively for individual branches of activity with protection for members and the right to strike. We refer to the right to strike as defined by ILO jurisprudence, without the provision of emergency teams or minimum services in sectors that are non-essential in the strict sense of the term.

In other instances, such as when workers belong to inter-enterprise unions with members in smaller enterprises, workers are doubly discriminated against because they ultimately require their employer's permission to bargain collectively. If the employer indicates that it does not wish to engage in collective bargaining, the workers simply cannot bargain – let alone strike – even if the quorum is met and the members can prove that they work in the same sector (this constitutes absolute discrimination). Enterprise unions do not have restrictions or requirements such as these; once established, they can always engage in collective bargaining without having to prove that a quorum has been met or that the members work in the same sector. The employer is required to respond to the proposals, and the unions then submit the response to their members. If the members do not agree, they can take strike action.

This standard not only gives the employer the right to refuse to engage in collective bargaining with workers belonging to inter-enterprise unions in small enterprises but prevents the trade

union from representing such workers. Although standards allow workers at such an enterprise to create a structure similar to an enterprise union – the only means by which can they submit a draft collective contract – they cannot act as an interlocutor with the employer to participate in bargaining without their inter-enterprise union. This subtly communicates to workers that they should have enterprise unions, and this is what labour inspectors and employers almost always suggest.

It is important to recall that the set of standards and case summaries on which the supervisory bodies have had to make a determination have highlighted several points relating to discrimination between trade unions. Given the limited functions of specific categories of trade unions provided for in some pieces of legislation, the Committee considered that the distinction made in domestic law between trade unions could have the indirect effect of restricting workers' freedom to join the organizations of their choice. The reasons that led the Committee to adopt that position were as follows: in general, the fact that a government can confer an advantage on a particular organization or withdraw it for the benefit of another carries the risk, even if unintentional, of favouring or disadvantaging one trade union over others, which constitutes an act of discrimination. Moreover, by favouring or disadvantaging one organization over others, governments can influence workers' decisions about which organization to join, since workers would undoubtedly be more inclined to join the trade union that would serve them best, even though there might be professional, religious, political or reasons that would otherwise inform their choice. However, the freedom to choose is a right expressly enshrined in Convention No. 87 (see *Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO*, 1985, para. 235).

## **2. Procedural flaws by labour inspectors in relation to collective bargaining, consisting of the issuance of unlawful and arbitrary decisions by the Labour Directorate**

Grievance hearings held following the grievance and rebuttal process have determined flaws in various collective bargaining procedures. We therefore request that these procedures be rolled back and that new hearings be conducted again, in accordance with the law, and/or that the harm caused be remedied. Several decisions have suspended or removed workers from trade unions engaged in bargaining without complying with the legal provisions of the Labour Code or applicable standards, or by applying standards that violate ILO Conventions Nos 87 and/or 98.

- 2(A).** We attach to this submission part of the Decision of the Eastern Santiago Communal Labour Inspectorate, which excluded from the bargaining process 276 women workers in response to a Fedir Chile's claim that the trade union had not proved that the workers in question were union members. That is false, as they were all members of the trade unions involved in the bargaining process [Decision to be attached in full]. We reproduce below the paragraph referring to the exclusion of 276 women workers from the bargaining process as a result of the Inspectorate's Decision.

The Eastern Santiago Communal Labour Inspectorate issued Decision No. 309 of April 2025, which illustrates better than any commentary the ongoing discrimination against inter-enterprise unions. The Decision contradicts the Inspectorate's own rules and excludes 276 women workers, and others, from the collective bargaining process between Fedir Chile, which is part of the Merken group, and the Víctor Jara, Gabriela Mistral and Los Ríos inter-enterprise trade unions.

Decision No. 309 of the Eastern Santiago Communal Labour Inspectorate rejected all the women workers' claims, which is clearly discriminatory and a blatant attempt to sabotage collective bargaining by reducing the list of participants, excluding 287 workers, and

contradicting the Inspectorate's own rules, which had previously ruled in accordance with its own standards in other collective bargaining processes involving workers in the same sector. The Inspectorate acknowledges that it has been proven that the women workers who were the subject of Fedir Chile's challenge do in fact work for the enterprise, but states that the trade unions did not prove that they were union members. However, that information was never requested by the enterprise. Moreover, the Inspectorate rejected the inclusion of a group of workers who had been omitted from the list of participants by the trade union bargaining committee because of typographical and other errors. There is a very clear standard which states that "any trade union member, by the mere fact of being a trade union member, must be part of any bargaining process entered into by the trade union to which he/she belongs". This is stated in Decree No. 2807 of 25 May 2016, but the present situation is even more serious because the standard had been applied by the Inspectorate almost a year ago in September 2024, making it difficult to understand the reasons for the Inspectorate's obstructive attitude. This must be clarified by the Inspectorate and compensation must be paid to those affected.

In this collective bargaining process, the resolution officer has omitted to include the relevant standards in the process in order to influence the outcome. The enterprise exploited the advantage granted by the Inspectorate, and instead of improving remuneration or benefits it merely adjusting them in line with inflation. It is important to note that this same Inspectorate annulled a bargaining process with the same enterprise – the Merken consortium – in 2018, a decision that was partially reversed by the courts in 2021.

The Decision states that although the documentation and contracts prove an employment relationship between the enterprise and the 276 women workers, they do not prove that said workers are members of the trade union, as no membership records were provided.

This is a legal aberration, as it requires evidence that was not requested by the employer and seeks confirmation from the unions that their members are indeed their members. The enterprise did not challenge the list of trade union members on the grounds that they did not work for it, but the Inspectorate itself acknowledges that it was proven that the 276 women workers did indeed work there. Furthermore, the enterprise has prevented other members from taking part in the bargaining process. The Labour Directorate has therefore indicated in several decisions and decrees that members of a trade union, by the mere fact of being members, are part of any collective bargaining process entered into by the trade union to which they belong. However, the legal criterion is being arbitrarily altered in this case.

10. With regard to the representation contained in Consideration 3(E), the trade union bargaining committee requests that all the women workers in the enterprise who are or may be members of the trade unions participating in the bargaining process be included on the bargaining list. In that connection, they attach a partial list of women workers who, to date, have been found to have been omitted from the bargaining list by Fedir Chile.
11. With regard to the representation contained in Consideration 3(D), although a series of documents concerning the existence of an employment relationship between the women workers and the enterprise have been seen, the trade union bargaining committee attaches the membership application for the women workers concerned:
  1. Sandra Barrera Marnriquez, Rwt: 15.7441. 279-8.
  2. Ana Maria Barros González, Tax ID: 10.731.412-1.
  3. Solange Garolina Beltran Beltrán, ID number: 13.576.413-2.
  4. Trinidad Elizabeth Bennal González, ID number: 15.567.432-6.
  5. Gabriela Bravo Vásquez, Tax ID Number 15.569.468-8.
  6. Maria Cristina Galleguillos Vespa, National Identity Number 9.488.343-1.
  7. Noemi Gannido Garrido, Tax ID Number 14.289.654-0.

8. Gloria Gómez Madrid, Tax ID Number 14.022.337-9.
9. María Teresa Zúñiga Sepúlveda, Tax ID No. 8.398.251-9.
10. Alejandra Inés Moyana Espinoza, Tax ID No. 17.449.294-8.
11. Ruth Galdames Meza, Tax ID No. 15.152.414-1.

This list corresponds to the 11 women workers whose names were submitted after the deadline by the trade union bargaining committee.

With regard to the rest of the documentation and contracts, although the existence of an employment relationship can be proven for 276 women workers, it cannot be proven that they are affiliated with the trade union, as no membership records are available."

In Decision No. 309, the resolution officer makes reference to a decree that completely contradicts his assertions.

It should be noted that Decree No. 2574 of 11 November 2021 states that: 'Unionized workers, by the mere fact of being unionized, are part of any collective contract submitted by the trade union to which they belong, with the exception of workers who are prevented from collective bargaining or are subject to the collective instrument of the trade union to which they belonged previously, in which case the provisions of section 323(2) of the Labour Code shall apply'. Notwithstanding the foregoing, this Decree is regarded as applying individually and not collectively with respect to mass bargaining lists, given the rights involved in a regulated collective bargaining process.

Without any commentary, the resolution officer seeks to create new regulations without having the authority to do so. It would not be fruitful to comment on the repeated violations of regulations, but it is important to highlight the responsibilities of public officials, which are relevant in this case, and the duty of the Chilean Labour Directorate to investigate any offence committed by them.

- 2(B).** A second type of discrimination affects inter-enterprise trade union bargaining: the trade union must prove that it only represents workers in the same sector, but there is a lack of clarity in this regard. For example, in 2018 the Inspectorate annulled the collective bargaining agreement between 5 inter-enterprise unions and Merken, arguing initially that the quorum had not been met, even though the enterprise had never made that claim and more than 2,000 workers were involved in the bargaining process. As this was such a crude ploy on the part of the Inspectorate, and given that the unions had demonstrated that 2,300 workers exceeded the 250 required by law and that the enterprise had not challenged the quorum, the Inspectorate acknowledged its error but came up with a different pretext for annulling the process: the food handlers' unions had not proved that they worked in the same sector. In other words, the food handlers had not proved that they were food handlers. The enterprise in question predominantly employs workers to prepare meals for schoolchildren and is subcontracted by the National School Assistance and Scholarship Programme (JUNAEB), the Chilean public body responsible for providing meals to pupils. On the above pretext, the enterprise decided to annul the collective bargaining process a second time. The women workers filed a legal claim under section 364 of the Labour Code, but the court case lasted three years. Although they won their case in 2019, during those three years they were prevented from engaging in and benefiting from collective bargaining with the enterprise, in violation of the Chilean Constitution. This constitutes a clear denial of justice.

As indicated above, the bargaining process involved more than 2,000 women workers; at the end of the court case, a collective contract was concluded with approximately women 700 workers, with the remainder employed by enterprises in collective agreements with trade unions under their control. As Chile's labour standards – violation of Conventions Nos 87

and 98 – stipulate that a worker cannot be covered by more than one collective agreement, at least 1,400 women workers were removed from the autonomous inter-enterprise unions by the State and employers, resulting in a drop in membership numbers.

Attached herewith:

- 2(B.1).** The court ruling on the 2018 collective bargaining process, in which the courts condemned the actions of the Eastern Santiago Communal Labour Inspectorate and ordered that collective bargaining should continue, only took place in 2021 due to various delays and obstructions on the part of the Inspectorate and the Labour Directorate. The bargaining process resulted in the signing of a collective contract that covered fewer than half of the women workers involved, as a result of the actions of the Inspectorate and the enterprise's anti-union practices, which were not reported to the courts as required by law and as requested by the trade union bargaining committee.
- 2(B.2).** An inspection request submitted to the Inspectorate on 2 July 2021 was refused by the Inspectorate.
- 2(B.3).** Court ruling convicting Merken for anti-union practices (the dismissal of women workers with collective bargaining rights).
- 2(B.4).** Decision No. 55 of 8 April 2020, issued by the Temuco Inspectorate, rejecting the request to review anti-union practices involving the dismissal of workers with trade union immunity.

The legal action filed with the courts by the trade union bargaining committee for anti-union practices by Merken was inexplicably rejected by the courts, despite the dismissal of workers, attacks by the enterprise on trade union leaders, and offers of bribes made by the enterprise to trade union leaders, including the presidents of the umbrella federation and the CGTP.

Clearly, all the provisions of section 364 of the Labour Code are not aligned with the ILO Conventions and were used in the bargaining process to justify all kinds of violations and abusive decisions by labour bodies. Moreover, these provisions are in conflict with Conventions Nos 87 and 98 and clearly violate both instruments, allowing second- or third-level public officials to frustrate the will of workers to improve their employment conditions and remuneration.

Legal discrimination and the interpretation of the Labour Directorate persistently hinder bargaining by inter-enterprise unions; ultimately, this discrimination effectively prevents workers from having unions that are independent of their employer and from engaging in collective bargaining without the issues and abuses inherent in labour inspections. The rules governing collective bargaining established in Volume V, Chapter I, section 364 and Chapter II of the Labour Code constitute a denial of the right to collective bargaining and create obstacles that branch unions must overcome every time they bargain collectively.

Section 364 discourages collective bargaining, making it a painful ordeal for workers and inter-enterprise trade unions. As already mentioned, it also contains discriminatory standards in relation enterprise trade unions, which are not subject to the abusive requirements imposed on inter-enterprise trade unions.

Ultimately, what happens in practice is that the standards contravening international Conventions compel trade unions to bargain without clear rules and without any rights and to waive the right to protection and the right to strike.

These standards hinder collective bargaining by imposing abusive requirements only on inter-enterprise trade unions such as the requirement to achieve quorums. Even when these are met,

the inspector hearing the grievance can simply decide on a whim that collective bargaining is not possible for whatever reason, and the workers are left completely defenceless because the abusive legislation ultimately leaves it up to the courts to resolve disputes between workers and trade unions by means of inspections or through the Labour Directorate; the courts have sometimes taken over three years to settle such disputes, leaving workers without benefits. This harms the trade unions and is seriously detrimental to the trade union and the workers. Furthermore, the Labour Directorate has unlawfully ruled that the members of these trade unions can be incorporated into collective instruments agreed upon by the employers' organizations with the employer, meaning that they can be removed from ongoing inter-enterprise trade union collective bargaining processes by means of a simple decision or decree and can be incorporated into spurious agreements by virtue of section 314. The Government of Chile should be requested to provide the file relating to the collective bargaining process that took place between five inter-enterprise trade unions and Merken in 2018, which was lodged with the Eastern Santiago Communal Labour Inspectorate, to illustrate how the regulations work in practice and the discretion exercised by the officials supposedly responsible for upholding the Constitution and the legal standards and agreements ratified by Chile. In this respect, the ratified Conventions are ultimately not applied and officials do not always carry out their duties responsibly. This situation does not arise if the trade union engaged in collective bargaining is an enterprise union: the latter submits a draft collective contract to the enterprise and the employer must respond within the legal deadlines, that is, within ten days of submission of the draft, and may challenge only the list of participants. The union must respond to this challenge, which may be settled by the union or the enterprise such that direct talks may then begin, or by the territorial inspectorate if no agreement is reached.

By contrast, when inter-enterprise unions submit their draft collective contract, the enterprise may not only challenge the list of participants but may make other demands, such as questioning whether the quorum has been met and requiring it to be met as set out in section 227, which has several paragraphs on different quorums but does not clearly specify which of them applies: is it the quorum for forming an enterprise union, the quorum for forming a workplace union, or the quorum for forming a union when there is no enterprise union? Is it what is set out in paragraph 1 of that section, or in paragraphs 2, 3 or 4? It would appear that there are many possible interpretations, and the decision is ultimately at the discretion of the responsible official, determined by the political affiliation of the resolution officer or union leaders, or entirely arbitrary.

### **3. Interference and obstruction by labour inspectors and the Labour Directorate**

Various manoeuvres made evident the hindrances created by the communal labour inspectorates of Eastern Santiago, Northern Santiago, Temuco, Illapel and San Bernardo, which violate the principles of labour law and obstruct the exercise of trade union and bargaining rights. The inspectorates have acted in such a way as to obstruct effective bargaining and the expeditious resolution of labour disputes. We have already described the situation of five trade unions and Merken in 2018, as set out in section 2 above.

These situations continued to arise after the events relating to Merken in 2018 involving the Eastern Santiago Communal Labour Inspectorate.

- 3(A).** With regard to other collective bargaining processes in 2024 and 2025, we cite those between the Víctor Jara National Inter-Enterprise Union and the National Workers' Union and Aliservice in the Northern Santiago Labour Inspectorate, which in 2024 annulled the collective bargaining process presented by the two unions on 8 March that year on the grounds that the unions had not achieved the quorum. The Northern Santiago Communal Labour Inspectorate's Decision acknowledges in

its response to 404 women workers that the enterprise had agreed to engage in collective bargaining (Consideration 21.7). However, the same Decision states that the unions had proven that 87 women workers whom the enterprise had claimed did not work for it did, in fact, work for it (Consideration 20.1), and acknowledges that it had been proven that a further 177 women workers were union members (Consideration 23.5). In other words, it had been proven that 665 women workers were part of the collective bargaining process and were entitled to bargain collectively, despite the enterprise's false and entirely baseless claim that it had 6,000 women workers. The current standards state that trade unions with 250 or more workers can always bargain collectively, and the unions had proven that they had 665 workers, so even under the current standards there should have been no impediment to their right to bargain collectively.

Our view is that the Government should provide a copy of the collective bargaining file relating to the bargaining process between the Víctor Jara Union and the National Workers' Union and Aliservice to prove that it acted lawfully.

We attach documents and decisions from the Northern Santiago Communal Labour Inspectorate regarding the annulment of the collective bargaining process with Aliservice.

- 3(B).** The same situation arose in connection with the 2024 collective bargaining process between the National Workers' Union and Alimab, which was likewise annulled because the union had allegedly failed to achieve the quorum. This is a small enterprise without an enterprise union, and the quorum to form an enterprise union was eight workers. However, the Inspectorate took a different view, did not respect the relevant standard and annulled the collective bargaining agreement, thereby hindering the legitimate right of workers and their union to improve their working conditions and remuneration.

Attached herewith:

- 3(B.1).** Special Decision No. 1313-18709-2024 of the Maipo-San Bernardo Provincial Inspectorate annulling the collective bargaining process

- 3(C).** An equally serious situation arose very recently in relation to the Eastern Santiago Communal Labour Inspectorate and collective bargaining between the Gabriela Mistral National Food Handlers' Union, the Víctor Jara National Food Handlers' Union, the Los Ríos Food Handlers' Union and Soser.

The unions presented their draft collective agreement to Soser, which has more than 1,300 women workers. In response, the enterprise raised a number of objections relating to the list of participants, as well as other claims had no effect on the process.

The unions responded to the challenge, as they are required to do by law. Bargaining between the enterprise and the workers commenced without issue, and as required by law a hearing was held to settle disputes over the list of participants and the pertinence of the challenges. At that point, on 10 April 2025, the Inspectorate sent the unions and the enterprise a communication by email, attaching ordinary official letter No. 308, dated 10 April 2025, which states:

With regard to the decisive role that Law No. 20.940 granted to the trade unions – a matter analysed in the aforementioned Ruling No. 2858/79 – it should be noted that, in accordance with the provisions of that Ruling, which aligns with the new standards incorporated by the legislation in question, when a trade union organization engages in collective bargaining, it does so with all of its members, notwithstanding the provisions of the section 323 paragraph 2 of the Labour Code, the application of which in no way limits the right to collective bargaining of members covered by a collective agreement.

Lastly, as the Inspectorate has repeatedly ruled it should be noted that the above statement does not imply that the parties will be prevented from engaging in collective bargaining since they may, by mutual agreement and at any time, using the non-regulated procedure referred to above, conclude a collective labour agreement even if they are covered by an a collective contract in force, in accordance with the provisions of section 314 of the Labour Code, which has the same effect as a collective labour contract according to the provisions of that legal text. It should also be borne in mind that, in accordance with section 307 of the Labour Code, no worker may be covered by more than one collective contract with a single employer, with the sole exception provided for in Decree No. 94 of 12 January 2021, pursuant to which the conclusion of a new collective contract terminates the agreement previously concluded by the same parties.

In the light of the foregoing, it is hereby reported that the collective instrument of 11 June 2024 concluded by the Gabriela Mistral National Inter-Enterprise Union of PAE/PAP Food Handlers (Single Trade Union Registration (RSU) No. 07020281), the Víctor Jara National Inter-Enterprise Union of PAE/PAP Food Handlers (RSU No. 07030189) and Sociedad de Servicios de Alimentación (Single Tax No. (RUT) No. 96.987.050-9 and lodged by the parties shall be registered as a collective labour agreement, effective from 1 June 2024 and expiring on 28 February 2027.

This is a bizarre document, given that the collective bargaining agreement was negotiated by women workers who had only started working for the enterprise on 1 March 2025 and could not therefore be covered by a collective contract in force between the unions in the process of negotiating with Soser. On 11 April 2025 – whether by mistake or in a devious attempt to give the appearance that the communication had been sent earlier – the Inspectorate sent a second email and attached ordinary official letter No. 307, which was also dated 10 April but was not sent until 11 April, which stated:

Lastly, as the Inspectorate has repeatedly ruled it should be noted that the above statement does not imply that the parties will be prevented from engaging in collective bargaining since they may, by mutual agreement and at any time, using the non-regulated procedure referred to above, conclude a collective labour contract even if they are covered by an a collective contract in force, in accordance with the provisions of section 314 of the Labour Code, which has the same effect as a collective labour contract according to the provisions of that legal text. It should also be borne in mind that, in accordance with section 307 of the Labour Code, no worker may be covered by more than one collective contract with a single employer, with the sole exception provided for in Decree No. 94 of 12 January 2021, pursuant to which the signing of a new collective agreement terminates the agreement previously concluded by the same parties.

Therefore, in the light of the foregoing, it is hereby reported that the collective instrument that the parties may conclude in connection with the draft collective labour contract dated 31 March 2025 and presented by the Gabriela Mistral National Inter-Enterprise Union of PAE/PAP Food Handlers (RSU No. 07020281), the Víctor Jara National Inter-Enterprise Union of PAE/PAP Food Handlers (RSU No. 07030189) and the Los Ríos National Inter-Enterprise Union of Food Handlers (RSU No. 140201081) more than 60 days prior to the expiry date of the collective labour contract to which they are subject until 28 February 2027, shall legally constitute a collective labour contract.

It should be noted that, for the reasons outlined above, no regulated collective bargaining was initiated as provided for in sections 327 et seq. of the Labour Code, and therefore the rights, privileges and obligations provided for in that legal text do not apply. Therefore, the background information relating to the presentation of the draft collective labour contract by the trade union organization, and any reply from the employer, will simply be archived in the administrative file.

Lastly, it should be noted that the Los Ríos National Inter-Enterprise Union of Food Handlers (RSU No. 140201081) may submit a draft collective contract to the enterprise when deemed

appropriate to do so, in compliance with the requirements established in Chapter IV of the Labour Code. The Gabriela Mistral National Inter-Enterprise Union of PAE/PAP Food Handlers (RSU No. 07020281) and the Víctor Jara National Inter-Enterprise Union of PAE/PAP Food Handlers (RSU No. 07030189) may negotiate a non-regulated collective agreement in accordance with section 314 of the Labour Code or, if they seek to engage in regulated collective bargaining, they must do so at the time indicated in accordance with section 333 of the Labour Code, as both trade union organizations have collective agreements in force as described in the preceding paragraphs.

The Inspectorate suspended this collective bargaining process or, as it euphemistically states in ordinary official letter No. 307, it “archived” it, thereby applying non-legal standards and violating the international Conventions with abusive and politicized interpretations intended to undermine trade unions’ negotiating power, in violation of Article 3 of Convention No. 87, and Convention No. 98, both of which have been ratified by Chile.

Moreover, the official in question lacked the authority to make this Decision, since the collective bargaining process had been initiated with the participation of over 1,000 workers, and section 340 paragraph (e) of the Labour Code states that the Decision must be issued by the labour inspector within five days of the conclusion of the hearing. If challenges or claims involve more 1,000 workers, they must be resolved by the Labour Director.

That did not happen in this case, and the Decision was signed by the head of a communal inspectorate, which is entirely unlawful and arbitrary.

The Decision was appealed by the trade unions within the legal time limit (three days) and a response of 17 April 2025 rejecting the appeal stated:

Through the submission of Antecedent (1), in which a legal challenge was filed on 15 April 2025 by the Víctor Jara National Inter-Enterprise Union of PAE/PAP Food Handlers, the Gabriela Mistral National Inter-Enterprise Union of PAE/PAP Food Handlers and the Los Ríos National Inter-Enterprise Union of Food Handlers, hereinafter referred to as the “unions”, the following is hereby reported:

On 1 April 2025, the Unions submitted to this Inspectorate a draft collective labour contract that was presented to Sociedad de Servicios de Alimentación (RUT 96.987.050-9).

On 10 April 2025, ordinary official letter No. 1322-307/2025, which was transmitted to the Unions and the enterprise on 11 April 2025, informed them of the inadmissibility of regulated collective bargaining based on the background, arguments and administrative doctrine indicated in rulings Nos 2858/79 of 27 June 2017; 3295/251 of 20 July 1998; 7335/114 of 21 September 1969 and ordinary official letter No. 1271 of 4 October 2023.

In the light of the foregoing, I hereby inform you that your request is inadmissible and will not be processed, since no regulated collective bargaining has been initiated as provided for in sections 327 et seq. of the Labour Code, and therefore the rights, privileges and obligations provided for in that legal text do not apply.

Lastly, I wish to reiterate that the Los Ríos National Inter-Enterprise Union of Food Handlers (RSU No. 140201108) may submit a draft collective contract to the enterprise when deemed appropriate to do so, in compliance with the requirements established in Chapter IV of the Labour Code. The Gabriela Mistral National Inter-Enterprise Union of PAE/PAP Food Handlers (RSU No. 07020281) and the Víctor Jara National Inter-Enterprise Union of PAE/PAP Food Handlers (RSU No. 07030189) may negotiate a non-regulated collective agreement in accordance with section 314 of the Labour Code or, if they seek to engage in regulated collective bargaining, they must do so at the time indicated in accordance with section 333 of the Labour Code, as both trade union organizations have collective agreements in force until 28 February 2027.

This response, declaring the request inadmissible, is an attempt to violate the right to collective bargaining of new members of the trade unions which submitted their proposal under the Conventions ratified by Chile, which grant trade unions the right to negotiate labour and employment conditions with their members' employers.

On 6 May 2025, outside of any legal deadline and several hours after the trade union bargaining committee had requested the Eastern Santiago Communal Labour Inspectorate and ministers to vote on the strike, the Labour Inspectorate – not the Labour Director – issued Special Decision No. 323, which states:

CONSIDERING:

1. That, by means of a submission dated 15 April 2025 made by the Gabriela Mistral National Inter-Enterprise Union of PAE/PAP Food Handlers (RSU No. 07020281), the Víctor Jara National Inter-Enterprise Union of PAE/PAP Food Handlers (RSU No. 07030189) and the Los Ríos National Inter-Enterprise Union of Food Handlers (RSU 14020108), a request for reconsideration was lodged against ordinary official letter No. 1322-307/2025 of 10 April 2025 issued by this Communal Labour Inspectorate with notification given on 11 April 2025, reporting that the regulated collective bargaining was inadmissible and that the case was closed;
2. That, in view of the Inspectorate's ruling contained in the aforementioned ordinary letter in reference to the deposition by the unions of the draft collective contract of 1 April of this year submitted to Sociedad de Servicios de Alimentación (RUT No. 96.987.050-9) on 31 March 2025, at their discretion, the appellants argue as follows:

- (a) They state: We are informed of the following: "In view of the reasons set out above, it should be noted that no formal collective bargaining was initiated as provided for in sections 327 et seq. of the Labour Code, and therefore the rights, privileges and obligations provided for in that legal text do not apply. Consequently, the documents relating to the submission of the draft collective labour contract by the trade union and any response by the employer will simply be archived in the administrative file.

Lastly, it should be noted that the Los Ríos National Inter-Enterprise Union of Food Handlers (RSU No. 140201081) may submit a draft collective contract to the enterprise when it deems it appropriate to do so, in compliance with the requirements established in Chapter IV of the Labour Code. The Gabriela Mistral National Inter-Enterprise Union of PAE/PAP Food Handlers (RSU No. 7020281) and the Víctor Jara National Inter-Enterprise Union of PAE/PAP Food Handlers (RSU No. 7030189) may negotiate a non-regulated collective agreement in accordance with section 314 of the Labour Code or, if they seek to engage in regulated collective bargaining, they must do so at the time indicated in accordance with section 333 of the Labour Code, as both trade union organizations have collective agreements in force as described in the preceding paragraphs."

- (i) They conclude their submission by requesting that the request for reconsideration against ordinary official letter No. 1322-307-2025 of 10 April 2025 be accepted and that, based on the considerations set out above, the ordinary official letter in question be set aside and the formal collective bargaining process presented by the Gabriela Mistral National Inter-Enterprise Union of PAE/PAP Food Handlers (RSU No. 7020281), the Víctor Jara National Inter-Enterprise Union of PAE/PAP Food Handlers (RSU No. 7030189) and the Los Ríos National Inter-Enterprise Union of Food Handlers (RSU 140201108) to Sociedad de Servicios de Alimentación (RUT No. 96.987.050-9) be continued. They underscore that there are a significant number of workers – more than 1,000 – who do not enjoy the benefits of any collective instrument. They reiterate their request that the submission be accepted, that the Constitution and the ILO Conventions ratified by Chile be respected, and that the Constitution and ILO Conventions Nos 87 and 98 not be violated.

...

8. That, consequently, in accordance with the foregoing and having analysed the appellant's position, it should be noted that these allegations cannot be considered to have the merit of invalidating the conclusions of the ordinary official letter that is the subject of the appeal, and on the basis of the factual and legal background set out in the considerations for this Decision,

I HEREBY FIND:

That the request for reconsideration lodged by the Gabriela Mistral National Inter-Enterprise Union of PAE/PAP Food Handlers (RSU No. 7020281), the Víctor Jara National Inter-Enterprise Union of PAE/PAP Food Handlers (RSU No. 7030189) and the Los Ríos National Inter-Enterprise Union of Food Handlers (RSU 14020108) against ordinary official letter No. 1322-307/2025 of 10 April 2025, issued by this Communal Labour Inspectorate, shall be rejected in view of the arguments set out in considerations 5 to 8 above.

This response from the Eastern Santiago Community Labour Inspectorate spares us the effort of further arguing our case: clearly, that body makes its own decisions, with no regard for the fact that the ILO Conventions are in force. It does not take those instruments into account at all and does not apply them.

It is clear that the ultimate goal of the Government of Chile is to hinder the right to collective bargaining of inter-enterprise and autonomous trade unions that are independent of employers or the Government.

Attached herewith:

- 3(C.1).** Ordinary official letter No. 307 of 1 April 2025, sent by email on 11 April 2025, declaring collective bargaining inadmissible.
- 3(C.2).** Ordinary official letter No. 308 of 10 April 2025, reporting that the term "collective contract" would be replaced by "collective agreement".
- 3(C.3).** Ordinary official letter No. 330 of 17 April 2025, declaring the request inadmissible.
- 3(C.4).** Special Decision No. 323 of 6 May 2025, rejecting the request for reconsideration of ordinary official letter No. 307.

#### **4. Minimum services: violations, illegalities and arbitrariness with inconsistencies in the processing of requests for minimum services in sectors that are non-essential in the strict sense of the term. Suspension of collective bargaining**

The food handling sector does not meet the basic requirements for minimum services in essential sectors in the strict sense of the term.

- 4(A).** In 2019, the Parral Labour Inspectorate suspended the strike ballot after the draft was presented. The enterprise responded, a grievance hearing was held, and a ballot was to be held to decide whether to accept the enterprise's most recent offer or approve strike action.

Certifying officers had been requested and appointed within the appropriate timescales, and the ballot process was under way. While the process had been completed in one commune and was under way in several others in the Seventh Region of Maule, an official from the Parral Labour Inspectorate ordered its suspension and, subsequently also the suspension of bargaining between the Víctor Jara National Inter-Enterprise Union of PAE/PAP Food Handlers and Soser, for no other reason than to prevent the approval of strike action.

In this context, the Parral Labour Inspectorate issued Decision No. 16, which annulled the ongoing bargaining process. When the legality of this action was challenged, a higher authority annulled Decision No. 16 by means of Decision No. 24 but simultaneously issued Decision

No. 25, which definitively annulled the regulated bargaining process, fully violating the relevant rights.

The aim of these decisions was to prevent the ballot from taking place, prevent the approval of strike action and eliminate the only means by which the women workers could counterbalance the power of the employer.

This is demonstrated by the fact that the Inspectorate acknowledges in Decision No. 16 that the women workers had submitted a draft collective bargaining agreement on 16 April 2019 and that their request had been submitted on 2 May 2019, that is, after the presentation of the draft collective contract, which had been submitted because a collective contract had expired on 30 May 2019. The legislation in force on minimum services states:

[...] The employer must submit in writing to all trade unions in the enterprise, at least 180 days prior to the expiry of the current collective agreement, its proposal for decisions on minimum services and emergency teams for the enterprise, by sending a copy of the proposal to the Labour Inspectorate. In the event that there is more than one collective agreement in force in the enterprise, the aforementioned 180 days shall be calculated based on the collective agreement closest to expiry.

The request for minimum services that submitted according to the Inspectorate's Decision was dated 24 May 2019, that is, four days before the end of the collective contract. This caused serious economic harm to the women workers and undermined the trade union, leading to the creation of an employers' organization.

The suspension of the collective bargaining process was abusive and based on Soser's request for minimum services. The Labour Directorate had never granted minimum services to the enterprise, and Soser's request was simply a pretext to prevent the union from engaging in regulated bargaining – a futile exercise in the opinion of many women workers.

Attached herewith:

- 4(A.1).** Decision No. 16 of 13 May 2019 annulling the joint collective bargaining agreement between the Víctor Jara, Gabriela Mistral and Manuel Rodríguez food handlers' unions.
- 4(A.2).** Decision No. 24, revoking Decision No. 16 of the Parral Labour Inspectorate.
- 4(A.3).** Decision No. 25 of 30 May 2019, issued by the Parral Labour Inspectorate and again rejecting the legal challenge filed by the trade union bargaining committee; this Decision highlights the abuse and misuse of minimum service requirements to hinder collective bargaining.

What is described clearly violates ILO Conventions Nos 87 and 98 and contradicts the jurisprudence of the Committee on Freedom of Association and the Standards Committee regarding essential services in the strict sense of the term because the definition of minimum services is extrapolated beyond ILO jurisprudence. In other words, the Decision legalizes the obligation to provide minimum services in non-essential sectors in the strict sense of the term, and seeks to transfer the responsibility of the State to workers subcontracted by the State through external enterprises.

A further example can be found in Decision No. 43 of 10 May 2019, signed by Ms Marisol Marchant San Martín, Community Labour Inspector at the Santiago Poniente Inspectorate on minimum services in respect of Hendaya, which legalizes the de facto annulment of the right to strike by ordering the unions engaged in collective bargaining with Hendaya to ensure that over 70 per cent of the women workers included in the collective bargaining agreement were available as emergency teams, citing provisions of the Labour Code that violate Convention

No. 98 and workers' right to strike if they cannot reach an agreement with the enterprise. This violates the jurisprudence of the Committee on Freedom of Association and the Standards Committee regarding minimum services in non-essential sectors in the strict sense of the term.

**4(B.1).** We attach a document on the minimum services authorized to cover labour during a strike, corresponding to 70 per cent of the women workers engaged in collective bargaining.

...

**4(B.3).** Decision No. 0693 of 8 March 2018, signed by Mr Christian Melis Valencia, which authorized minimum services for food handlers for Aliservice, under which each worker was required to prepare 140 meals per day, that is, 100 per cent more than the number set out in the tendering terms. This constitutes forced labour.

**4(C).** The Labour Inspectorate ordered that the unions provide minimum services to Alicopsa during collective bargaining with the handlers' unions, in accordance with an authorization issued by the authority in 2018.

**4(C.1).** We attach the Inspectorate's Decision on Alicopsa's minimum services. Currently, a food handler prepares up to a maximum of 70 meals per day, but there are nearly 2,000 women with work-related ill health as a result of overwork and overexploitation. A communal inspector wants food handlers to prepare over 110 meals (110 at Hendaya, 140 at Aliservice, and 120 at other enterprises).

All these decisions are abusive and violate international labour standards, including ILO Conventions Nos 87 and 98. They are based on the false assumption that women workers are responsible for fulfilling the obligation of the Government. Feeding children is not the responsibility of women workers employed by a State contractor but the responsibility of the public authorities. Such action legalizes inhumane overexploitation by forcing women workers to prepare between 110 and 140 meals per day, which is twice the maximum of the 70 meals per day permitted under the management indices approved by JUNAEB in its tendering terms. In a separate case, the Labour Directorate established that each worker who forms part of an emergency team in the event of strike action must prepare 120 meals, effectively eliminating the right to strike and violating Article 3 of Convention No. 87. The minimum services requirement makes it impossible for trade unions to exercise the right to organize their activities as granted by the Convention; that right is effectively annulled and the right to strike abolished, while women workers in emergency teams are forced to work, thereby exacerbating their work-related ill health. When their health deteriorates, they are dismissed and have no employment, pension or protection.

We are struck by the Government's recurring practice of ignoring requests from the ILO supervisory bodies, and by the fact that those responsible for the aforementioned violations suffer no consequences. Enterprises' requests for minimum services from women workers in this sector, such as food handlers, were accepted by the Labour Directorate but different criteria were applied for each enterprise. Some were permitted to exploit women workers more than others, but all authorizations of minimum services impede, hinder and ultimately eliminate the right to strike and harm women workers' health. The emergency service authorized for enterprises requires well in excess of 60 per cent of the workers engaged in collective bargaining. Those workers are obliged to perform 100 per cent of the duties of their striking colleagues. What purpose does strike action serve if it does not affect the preparation of meals or

the provision of food services to children? It is a futile gesture, as the strike becomes pointless and cannot redress the balance between the parties involved in collective bargaining.

The Government has refused to provide information on this matter to the ILO supervisory bodies because it knows full well that it is violating Convention No. 87 and that strike action is impracticable. Who would risk strike action when it is a lost cause before it has even begun? In practice, minimum services have effectively eliminated the right to strike among food handlers and in other sectors by hindering the right to strike in sectors where they must be provided.

## **5. Misinterpretations and negligence in the accreditation of workers in collective bargaining**

There has been a misinterpretation of who is responsible for accrediting the number of workers in enterprises, which affects the validity and legality of collective bargaining that is being undertaken because labour inspectors are assigning the responsibility for accrediting the number of workers in an enterprise to the trade union rather than to the enterprise itself. Documentation from previous months – rather than from the month in which the collective bargaining is taking place – is accepted, which causes confusion and does not reflect the current reality. As we have already stated in relation to the collecting bargaining between two trade unions and Aliservice, the Labour Inspectorate ruled that the workers must accredit the number of workers in enterprises, which is frankly absurd given that the trade unions do not hire staff. In other words, the workers are being asked to do something impossible and are then penalized through the suspension or cancellation of collective bargaining on the grounds that failed to do the impossible.

## **6. Anti-union practices and violations of fundamental rights**

There are reports of anti-union practices, dismissals in violation of trade union immunity, smear campaigns and obstacles in various regions (including Temuco, Illapel and San Bernardo), which violate the right to freedom of association and collective bargaining. Labour inspectors refuse to carry out inspections despite the fact that the law requires them to investigate complaints and take these enterprises to court for their actions. They simply do not do so, leaving workers completely defenceless.

## **7. Violations of international and legal standards and refusal to apply the ratified Conventions adapt domestic standards that violate them**

It has been determined that the Labour Directorate has refused to investigate the anti-union actions and practices of public officials and heads of services against union leaders in the sector. Several provisions of the Labour Code and decisions of the Labour Directorate contravene the international Conventions ratified by Chile, in particular Articles 3 and 4 of ILO Conventions Nos 87 and 98, thus affecting the protection of the right to organize and engage in voluntary collective bargaining.

On 30 January 2024, the CGTP submitted a request to the Labour Director to tacitly repeal provisions of the Labour Code and cited some of the sections that violate the ILO Conventions ratified by Chile, in particular Nos 87, 98, 135 and 151.

The request lists the provisions of the Labour Code that should be tacitly repealed:

- Section 357, paragraphs 2–7.

- Section 359: tacit repeal of the paragraph on minimum services is requested (the relevant paragraph is specified in the request).
- Section 364: tacit repeal of the fourth, fifth and seventh paragraphs on the grounds that they violate Article 3 of Convention No. 87.
- Section 408: tacit repeal of the following wording: “For those for whom bargaining will always be voluntary” and “The deadline for communicating the decision to enter into negotiations shall be 30 days from the date of submission of the proposal. If the decision is affirmative, it must be communicated within this same period”.
- Section 409: tacit repeal of the wording “subject to approval by the meeting of members, in accordance with the provisions of its statutes. In the absence of applicable statutory regulations, they must be approved at a meeting by an absolute majority of the members, in a secret ballot held before a certifying officer.”

In February 2025, the Legal Department of the Labour Directorate sent an email with an attached document, Decree No. 911 of 30 December 2024, in response to the request for the articles that violate the ratified Conventions to be tacitly repealed. It stated:

... Therefore, based on the aforementioned legal provisions, the administrative jurisprudence invoked and the considerations set forth, I hereby inform you that the Directorate lacks the authority to declare the tacit repeal of some of the provisions of the Labour Code governing collective bargaining, as they are not, in the Directorate's view, aligned with the provisions of ILO Conventions Nos 87 and 98.

In other words, the Directorate simply does not want to fulfil the request. It claims that it does not have the authority to tacitly repeal the provisions that violate the Conventions and calls into question whether they in fact do so. Furthermore, the Directorate fails to arrive at the interpretation that ought to be arrived at when a lower-level standard violates a higher-level one: it merely excuses itself and allows the continued violation of the fundamental rights of organized workers.

Attached herewith:

**7(A).** Request from the CGTP of 29 January 2024.

**7(B).** Decree No. 911 of 30 December 2024, only sent recently in 2025, in which the Labour Directorate declares itself powerless to repeal provisions of the Labour Code that violate international Conventions ratified by Chile.

## **8. Court judgments achieved through the persistence of workers' organizations, convicting companies of rights violations or anti-union practices, and State bodies' failure to comply**

The most onerous and punitive sanction is that such enterprises cannot contract with the State for up to two years after the court judgment becomes enforceable; consequently; their right to contract and do business with the State is limited.

However, JUNAEB and the Government of Chile disregard the requirements of the tendering terms and violate their own standards and the law. Despite such action being prohibited, they continue to award tenders to and conclude contracts with sanctioned enterprises, even though they know full well that in such cases the most severe and dissuasive sanction is precisely to prohibit them from contracting with the State.

This has occurred in respect of sanctions imposed by labour courts on Departamental and Merken, with which the State, through JUNAEB, concluded contracts for the supply of meals, which it should not have done.

What is the point of the so-called rule of law if those responsible for enforcing it violate it and allow violations of fundamental rights to go unpunished?

**9. Arbitrary and unlawful acts by labour inspectors that seriously harm trade unions through misconduct and poor decisions, in violation of ILO Conventions Nos 87, 98, 135 and 151**

**9(A). Refusal by the Santiago Poniente Communal Labour Inspectorate to suspend the strike during holiday periods or the ongoing bargaining process between the inter-enterprise trade union and Hendaya**

Unlawfully and arbitrarily, the Santiago Poniente Communal Labour Inspectorate refused to suspend the collective bargaining process which, as a result of students' winter holidays being brought forward from July to June, meant that the holidays coincided with the start of the strike. This was because the Inspectorate refused to apply the Labour Directorate's rulings on the matter, which state that during holiday periods, collective bargaining and strikes must be suspended, as must the provision of mandatory information by the enterprise for the purpose of collective bargaining.

Despite the existence of regulations stipulating that strikes and collective bargaining – as well as the provision of information by enterprises to trade unions – must be suspended during holiday periods, the Inspectorate continued with the process, which of course affected the union's bargaining with Hendaya.

It is all too evident that there was clear collusion between the Labour Inspectorate and Hendaya that seriously harmed women workers, who received fewer benefits than other trade union members in Maipú and other areas, failed to achieve the quorum and entered into unregulated agreements with the enterprise, highlighting the latter's discriminatory practices and eagerness to take advantage of an improper decision by the Inspectorate.

In view of this arbitrariness, the union submitted a request for reconsideration of the Inspectorate's Decision, as is permitted under current legislation. In the year since the request was submitted, the Inspectorate has not resolved the situation and has not responded to the request, despite the fact that it was obliged to resolve the matter within five days. This constitutes pure arbitrariness and an abuse of power, and the women workers and the union have been harmed by the Inspectorate's abuse.

**9(B). Unlawful and arbitrary acts by the Eastern Santiago Communal Labour Inspectorate**

Since 2018, this body has purposely acted to benefit the Merken consortium and at that time sought to annul the collective bargaining agreement. It initially claimed that the unions had not met the quorum for collective bargaining, on the grounds that there were over 2,000 women workers participating in a process that involved 5 trade unions. The discriminatory rule against inter-enterprise unions requires them to represent 10 per cent of the enterprise's workers, and if they have more than 250 workers they can engage collective bargaining. As the enterprise did not challenge the quorum – or rather, the trade unions were not notified of any such challenge by the enterprise or the Inspectorate of any such challenge – there was no need to respond to in that regard. Although the contracts of over 2,000 members demonstrated that the quorum had been amply met, the Inspectorate came up with a different pretext for cancelling the bargaining process, namely that the women

workers could not prove that they were food handlers. The legal claim lodged by the union was upheld by the court, which ruled that the Inspectorate was in the wrong and that collective bargaining should continue.

The Labour Directorate – which is supposed to be responsible for enforcing the law, including Conventions Nos 87, 98, 151 and 135 – requested that the ruling in favour of the women workers be annulled. Thereafter, the Inspectorate took three years to comply with the court ruling and resorted to a series of ploys. It refused to authorize the strike ballot being held by the five trade unions, on the grounds that the other unions already had collective agreements in force. In doing so, it violated the court ruling and authorized the enterprise to engage in all manner of anti-union practices, including registering collective agreements that included 1,600 women workers who had been part of the collective bargaining that the court had ruled must continue, and dismissing the family members of trade union leaders and some of the women workers who were close to them.

The Labour Directorate benefited the enterprise by disregarding the latter's conviction for anti-union practices. While bargaining was under way in accordance with the law, the Labour Directorate refused to lodge a complaint with the courts for anti-union practices involving the dismissal of workers who had trade union immunity; it has not reinstated those women workers, nor has it heard complaints relating to the attempted bribery of leaders of the National Federation of Food Handlers (FENAMA) and the CGTP .

The Inspectorate was so apathetic that the women workers had to file a complaint for contempt of court order to get it to comply with the court judgments. The case gathered dust and the courts closed it without punishing those responsible.

#### **9(C). Unlawful and arbitrary acts by the Temuco Communal Labour Inspectorate**

The Inspectorate refused to recognize the immunity of the women workers engaged in collective bargaining, which led to the courts rejecting a claim for anti-union practices involving dismissals. The labour judge ruled that immunity had expired as it only lasted a few days and not, as the law states, up to 30 days after concluding a collective contract.

#### **9(D). Unlawful and arbitrary acts by the Illapel And Coquimbo communal labour inspectorates**

These inspectorates compiled a register of collective agreements in Coquimbo and Illapel, knowing full well that regulated collective bargaining was under way that involved a dispute between the unions engaged in collective bargaining and the Labour Directorate regarding result a decision by the latter. Furthermore, the dispute was being dealt with by the courts following a legal complaint filed by the unions, which meant that formal collective bargaining was under way between five inter-enterprise unions and the Merken, and the courts had not yet ruled on the matter. The women workers whose names were on the lists of those covered by the agreements registered by the inspectorates were part of the regulated collective bargaining process. The inspectorates registered them with the clear intention of undermining the bargaining position of the five unions, despite it being inappropriate to do so because they were already part of an ongoing bargaining process.

The excuse given by the inspectorates was that said bargaining processes was covered by section 314 of the Labour Code and therefore had to be registered as collective instruments. In other words, the Labour Directorate deemed that it was legal for the enterprise to engage in anti-union practices because the law allowed it to do so. This clearly constitutes a clear violation of Convention No. 98, since by applying section 314 of the Labour Code enterprises can offer trade unions or groups of workers the opportunity to sign collective agreements

without being subject to any rules, thereby weakening the collective bargaining power of autonomous trade unions and the State.

Clearly, we are dealing here with a rule that is not intended to facilitate collective bargaining but can instead be used to undermine autonomous trade unions and weaken the collective bargaining power of trade unions that fulfil their duty to defend and represent workers.

This provision violates Convention No. 98 and should therefore be tacitly repealed, as it contradicts the rules on collective bargaining by failing to provide for the protection of participants and by denying the right to strike to those who engage in collective bargaining under section 314.

**9(E). Unlawful and arbitrary acts by the Maipo-San Bernardo Communal Labour Inspectorate**

The Labour Directorate of San Bernardo persists in refusing to recognize the court ruling that rejected the Inspectorate's Decision to include a third party in the collective bargaining between the departmental enterprise and the National Union of Workers (SME), and has lodged an appeal for annulment against a court judgment upholding the SME's demand to include all the women workers to which the enterprise had objected and stating that by including an enterprise not involved in collective bargaining the Inspectorate had validated the enterprise's argument, submitted after the deadline, to exclude a group of women workers from collective bargaining, without challenge from the enterprise.

**9(F). Unlawful and arbitrary acts by the Northern Santiago Communal Labour Inspectorate**

In collective bargaining between the Víctor Jara National Inter-Enterprise Unions of PAE/PAP Food Handlers and Aliservice, the Northern Santiago Communal Labour Inspectorate annulled the process on the grounds that the unions had not met the quorum and claimed that the enterprise had submitted payroll slips for social security contributions proving that it had 6,000 women workers in March 2024, when in fact the enterprise had never submitted any payroll slips. In reality, the enterprise had – and still has – 2,200 women workers, and acknowledged in its response that it recognized 440 women workers on the bargaining lists and challenged the participation of over 400 who it claimed did not work for it. However, the unions accredited more than 200 of those and stated that they did, in fact, work for the enterprise, which the Inspectorate subsequently confirmed. It is therefore unclear whether there were more than 600 who were part of the collective bargaining process, and how it was determined that the quorum had not been met.

**10. Multinational companies using provisions of the Labour Code to dismiss trade union leaders from the CGTP**

The multinational enterprise Nestlé seeks to dissolve the primary union, whose leaders include the General Secretary of the CGTP.

The facts are that in November 2022, the leaders of the National Inter-Enterprise Union of Food Workers received a telephone call from Ms Angelica Bustamante, inspector of the Maipú Labour Inspectorate in the Metropolitan Region, requesting that the union leaders attend the Inspectorate as soon as possible to hand over all the union's documentation, which was requested by the enterprise. Among the documents expressly requested by Nestlé Chile were the register of members and founding charter.

An investigation committee was established within the Labour Inspectorate, under number 1309/2022/1537. This information was communicated to the trade union leaders at the Maipú Labour Inspectorate after they requested more information about what was happening.

The Labour Inspectorate never provided the union leaders with a copy of the request for the dissolution of the union or the grounds therefore, nor with the documents setting out the basis for the request. The union leadership proceeded to disclose all the requested information but refused to provide a copy of the register of members, as they considered that request to be a clear violation of the principle of trade union autonomy and freedom of association and that providing that information would jeopardize the job security of union members given that the provision of the register of members to the enterprise had previously resulted in retaliatory acts, specifically the selective dismissal of workers affiliated to the trade union organization.

The union presented all the required documentation to the labour relations officer of the Maipú Labour Inspectorate, who verified the validity, activity and membership of the trade union organization but requested that the identity of the members be kept confidential for the reasons outlined above. The union is very active and has a life of its own and leaders who work at Nestlé Chile, which has its headquarters at Cinco de Abril No. 0 450, Maipú. The organization has the legal status of an inter-enterprise union that represents workers from various enterprises, that is, its members work both for Nestlé Chile and for other enterprises.

Historically, the individuals affected have been trade union leaders in the enterprise and founding members of the Federation of Trade Unions of the Nestlé Services and Related and Ancillary Activities – a fact that is public knowledge and well known within the enterprise and the municipality of Maipú – as well as members and founders of the CGTP and the CAT.

The Federation of Trade Unions of Nestlé Services and Related and Ancillary Activities is further affiliated with the Trade Union International of Workers in Agriculture, Food, Commerce, Textiles and Allied Industries (UISTAACT) and the Trade Union International of Food, Agricultural, Forestry and Tobacco Workers, which is a member of WFTU.

Union leaders have travelled to various South American countries where Nestlé has offices and workers, including as Peru and Colombia, works with members from other countries including Nestlé workers from France, Argentina and Cuba, and actively participates in food workers' congresses in Chile and abroad.

Nestlé Chile is aware of the above, as union leaders make use of their trade union leave whenever they have to attend such events.

This is the only union within Nestlé Chile that defends workers and their rights; other unions merely sign the collective agreements imposed on them by the enterprise.

The Labour Directorate did not proceed with the dissolution of the union. Dissatisfied with that decision, Nestlé Chile applied to the labour courts on 29 September 2023 for a declaratory judgment against the union of unenforceability due to abuse of rights, on the grounds that the union had been established for the personal benefit of its leaders. There is no doubt that the current leaders have been punished by the enterprise, as their salaries have been frozen since 2019, with no increases or benefits.

On 11 September 2024, the court of first instance upheld the enterprise's claim regarding other unions included in the same proceedings, but not the demand to dissolve the union of which the General Secretary of the CGTP, which was established in March 2014, is a member.

In response to the ruling, the enterprise lodged an appeal for annulment with the Santiago Court of Appeal. To date, no hearing has been scheduled for the Court of Appeal to rule on the matter, which shows that the proceedings were not only intended to eliminate the rights of several unions and dissolve them, but that the main objective – which was not achieved – was to eliminate the union chaired by the General Secretary of the CGTP.

On more than one occasion, the leaders of this union have filed complaints against Nestlé Chile with the labour inspectorates and the labour courts for anti-union practices.

The Norwegian multinational enterprise Mowi Chile, formerly Marine Harvets, has filed a preliminary injunction against the leader of the CGTP with the Puerto Montt Labour Court in an attempt to dismiss him and force him to submit all the documentation of the primary union. In his submission to the courts, he acknowledges that he is a leader of a federation affiliated to the CGTP and that he is a leader of the CGTP. The enterprise's argument is that if he is not currently a leader of a primary union he lacks the trade union immunity that would protect him from dismissal for carrying out his union activities.

The legal provisions that give employers the right to interfere in union affairs, which contradicts Article 3 of Convention No. 87, are very harmful, allowing them to build cases in an attempt to prove that there has been an abuse of rights and obtain authorization through the courts to dismiss "inconvenient" union leaders, thereby sending a warning to others. In other words, this is how the enterprises try to "tame" the unions.

Attached herewith:

**10(A).** Labour court ruling partially upholding the request by the multinational enterprise Nestlé to dissolve the trade union. This constitutes a violation of an Article of Convention No. 87.

**10(B).** Preliminary hearing or pretrial hearing for the submission of documents by leaders of the CGTP.

## **11. Sanctions against public sector union leaders for fulfilling their union duties and reporting poor practices**

In the public sector, union leaders are being sanctioned and persecuted by their superiors through administrative proceedings and suspension from their duties for fulfilling their union duties and activities, and for receiving complaints from their members and passing them to their superiors. In this particular case, we present the ongoing situation in the Chilean Police Welfare Directorate (Dipreca), and other trade union leaders in the public sector, whereby leaders are being suspended from their duties.

Union leader Ms Janette Droguett Navarro, President of the National Association of Dipreca Officials (ANFUD) – Staff and Contractual, has been persecuted for trade union actions related to her responsibilities as President. On 24 April 2024, three associations of Dipreca officials sent a formal letter, signed and stamped by their organizations, complaining that the authorities had refused to meet with them and demanding the removal of the acting director of Dipreca, who is disqualified from holding public office as a result of previous dismissal for lack of administrative probity and failure to perform his duties in a different State service.

This complaint led to a campaign against the leader and interference in the union affairs of the ANFUD association. In response to this situation, on 16 May the board of the National Association of Prison Officers of Chile (ANFUP) lodged a complaint with the Labour Directorate.

1. In April 2024, summary administrative proceedings were initiated against her.
2. On 9 September 2024, she was summoned to testify in the context of the summary proceedings, at which time the prosecutor notified her of a preventive suspension for the duration of the investigation (The suspension lasted seven months).
3. In April 2025, she was notified that her preventive suspension had been lifted and a penalty consisting of a three-month suspension on 50 per cent of her salary and a six-point reduction in her qualifications was proposed.

4. Her lawyer launched an appeal process, which was admitted despite the fact that throughout the proceedings the chief prosecutor had indicated that it was not possible to pursue a preliminary investigation because the accusations related to her role as a trade unionist, and the institutional prosecutor had made the same observation.

The acting director of Dipreca rejected the proposal (on that date), as a complaint had already been filed in June 2024 with the Comptroller General of the Republic (CGR) for anti-union practices that had been entirely upheld, and Ms Droguett Navarro awaited a resolution. The case was referred to a new chief prosecutor who, bizarrely, issued a preventive suspension and demanded the maximum penalty of dismissal.

The new director of Dipreca, Mr Carlos Capurro, partially accepted the request for reconsideration and imposed a penalty of one month's suspension on 50 per cent of her salary and a 6-point reduction in her qualifications.

To date, all of the following are still in process:

- A complaint to the CGR regarding anti-union practices, which the Labour Department declined to investigate on the grounds that as a public body it was not responsible for investigating anti-union practices.
- A request for protection lodged with the Court of Appeal for failure to substantiate administrative acts as required by Law No. 19.880 on administrative procedures, pending a ruling by the Supreme Court.
- Work is under way to commence legal proceedings in the labour courts.

Attached herewith:

- 11.1. Letter from Dipreca officials' associations to the head of the Police Management and Modernization Division (DIGENPOL).
- 11.2. Letter to the President of the Republic.
- 11.3. Response from the President of the Republic.
- 11.4. Complaint to the Labour Directorate regarding anti-union practices.
- 11.5. Ordinary official letter No. 1300-18334.2024.
- 11.6. Further letter to the President of the Republic.

## **12. Public sector workers suffer persecution and harassment by their superiors due to the arrogance of the latter and the passivity of State supervisory bodies**

As in the case of Ms Droguett Navarro described above, many other State officials and public sector leaders suffer workplace harassment, sexual harassment and union persecution by the heads of public administration institutions.

Administrative proceedings are being used to repress the actions of leaders whenever they demand that labour and social rights be upheld. Previous complaints to the ILO attest to this.

Unfortunately, the Chilean Government has become an employer that violates the fundamental rights of public workers. Since the restoration of democracy in the 1990s, successive governments have employed the same anti-union practices to prevent leaders from taking action as those employed by the managers and owners of private enterprises.

Another fact that exposes the Chilean State and its governments is that they are in breach not only of the Conventions on freedom of association but also of other ratified international Conventions, including Convention No. 144 on tripartite consultation.

In Chile, public sector salary and bonus adjustments are negotiated in October and November each year. This involves a negotiation process in which the Government only accepts the participation of a single organization, even though there are four trade union confederations that are not even consulted. The Government instead makes decisions with its closest allies and imposes so-called adjustments that have ultimately resulted in real wage cuts of more than 5 per cent in recent years. These decisions are made at the top and are put to Parliament as signed agreements without consultation with workers. Everyone is allowed to have allies, but when it comes to negotiating wages and benefits, all unions representing public sector workers must be allowed to participate. Aspects that ultimately affect the quality of life of all public sector workers cannot simply be agreed without consultation.

The CAT and its Public Sector Workers' Front (FTSP) were not included in the 2024 negotiations even though they had presented their proposals to the Government, which included a request for recovery of the wage losses that civil servants had suffered as a result of the latest wage adjustments being below inflation for the period in question and exceeding 5 per cent in wage losses, that is, these adjustments had resulted in a wage reduction.

The CAT and FTSP submitted letters to the President of the Republic, the Minister of Labour and Social Welfare and the Minister of Finance requesting to be at the negotiating table or to establish a second negotiating table. To that end, a petition was submitted, but regrettably they were excluded from negotiations.

It is deeply regrettable that the practice of agreeing adjustments with allies or trusted leaders that disadvantage workers has become a bad habit for many governments.

Attached herewith:

12.1. Petition from the CAT's FTSP.

12.2. Letter to the President of the Republic.

12.3. Letter to the negotiating ministers: Minister of Labour and Social Welfare and Minister of Finance.

### **13. Loss of labour rights, collective contracts, wage cuts and the annihilation of trade unions in the urban public passenger transport system in Santiago (RED) (formerly Transantiago)**

In 2007, the urban public transport system in Santiago (the capital of Chile) underwent a process of modernization that radically changed the way the service, called Transantiago, was provided to the population.

Until January 2007, urban public passenger transport was provided by small and medium-sized enterprises without any State subsidy.

Since February 2007, the implementation of the new urban public transport system (Transantiago) has been largely (70 per cent) in the hands of transnational enterprises, leading to the corporatization of the system, with large companies operating the system and employing approximately 22,000 workers. During this modernization process, workers and trade unions were not consulted by the Government.

Although modern electric buses have improved the quality of transport in Greater Santiago, fares are high and the State subsidy does not benefit passengers as most of it is used to ensure the profitability of the enterprises operating the system. Public money is being used to enrich multinationals and a handful of entrepreneurs.

Workers have been the most overlooked in the process. The system operates through public transport tenders issued by the Ministry of Transport and Telecommunications, which award renewable five-year concession contracts. When operators have gone bankrupt, the Ministry of Transport terminates the service and transfers it to another operator.

In our view, this situation constitutes the principal violation of the fundamental rights of the 22,000 workers in the RED urban public transport system.

It occurs because every time services expire, companies go bankrupt or new public tendering processes take place, workers are left completely unprotected against big corporations. As there is no branch-level bargaining in Chile, only enterprise-level bargaining, employers ultimately impose worse working conditions and reduced wages on workers because the latter lose all the rights they had acquired while working for the previous operator. All the progress made in respect of unionization of workers, collective contracts, wage increases and better working conditions disappear when a new tender is issued. The unions disappear, collective contracts are terminated and wages are consequently reduced, because the new operators hire workers on lower wages.

Trade union federations and confederations are prevented from bargaining collectively at branch level and are therefore at the whim of the enterprises and sometimes on the Government (because of State subsidies). The Government, through the Ministry of Transport and Telecommunications, must ensure that the tendering terms include employment conditions that are at least equal to or better than those of the collective bargaining agreement with the outgoing enterprise, whatever the reason for its departure, since the Government funds the capital's transport system and sustains it economically. The National Unitary Confederation of Transport and Related Workers of Chile (CONUTT), its affiliates and its primary unions have been severely affected by the unwillingness of the Government and ministries to ensure the rights granted to workers by the ILO Conventions.

#### **14. Agrosuper engaging in anti-union practices, denying the right to regulated collective bargaining, imposing collective agreements and attempting to annihilate the Agrosuper workers' union (RSU no. 06040059)**

Agrosuper is a Chilean enterprise and a leader in food production and marketing. It has a 70-year history, having been founded by Gonzalo Vial in the O'Higgins region in 1955. The enterprise started out producing eggs, before expanding into the rearing of live chickens, giving rise to the Super Pollo brand. It opened a processing plant in Lo Miranda district in the Sixth region.

In 1989, the enterprise moved into salmon farming in Chile's Lake District. In 2002, the Rosario processing plant was opened for pig slaughter. In 2011, Agrosuper acquired 100 per cent of the Sopraval brand, producing turkey. In 2019, it acquired Aqua Chile, boosting its salmon production. In 2020, an Agrosuper parent enterprise was established incorporating the meat and aquaculture segments. In 2022, the first sustainable Hijuelas branch was opened in the Valparaíso region.

Today, Agrosuper is one of Chile's largest food enterprises – a multinational with a presence in more than 64 countries selling a wide range of products including chicken, pork, turkey, cured meats and salmon.

It has more than 15,000 workers, contribute to the sustainable development of the enterprise across various production areas, branches and offices in Chile and other countries.

In late 2023, the Agrosuper San Vicente de Tagua Tagua enterprise invited the union to bargain collectively as provided for in section 314 of the Labour Code and to conclude a collective agreement, without any rights. The same invitation was extended to all the unions in the enterprise.

It should be noted that for 29 years, this enterprise has imposed working conditions and wages through collective agreements (a collective instrument in which workers do not participate and which does not include the right to strike). The union decided in assembly to enter into regulated collective bargaining, in which workers participate, make decisions and have the right to strike.

In the course of 2024, as a result of the union's decision in assembly to enter into regulated collective bargaining, the enterprise began to engage in all manner of anti-union practices with the aim of undermining the union and instilling fear in the workers.

These practices and actions were instigated by the management with the aim of undermining the union. The union president, Ms Isabel Castro, suffered grotesque attacks including insults, abusive graffiti in workplace toilets and corridors, and direct harassment.

Complaints made to the labour authorities regarding anti-union practices and violations of fundamental rights were upheld by the Inspectorate.

The enterprise refused to engage in regulated collective bargaining and threatened workers – including the family members of union leaders – with dismissal. Moreover, it hired external enterprises to proceed with dismissing workers from the rebellious union.

These illegal practices were a success from the Agrosuper's perspective, as the number of union members fell considerably. Making employment conditional on workers leaving the rebellious union had the desired effect, with membership falling from 670 to 180. The enterprise achieved this because the Government, through its labour inspectorates, failed to take timely action to monitor these anti-union practices and impose appropriate sanctions.

Unfortunately, the union was unable to reach a regulated collective bargaining agreement. On 30 July 2024, they had to engage in talks to keep the union alive, as it was being annihilated. The union's members and leaders also needed to maintain their labour force. The courage of these workers was infinite. Of those who remained, many of them resisted and, although weakened, they are trying to rebuild.

The Agrosuper Enterprise Union of Workers (RSU No. 06040059) remains steadfast today and is waiting for compensation from the Chilean Government for negligence. It is unacceptable that, despite the ratification of Conventions Nos 87 and 98, there are no dissuasive sanctions in Chile for systematic harassment and brutal violations of the human and fundamental rights of organized workers, who must suffer this aggression without the imposition of sanctions that would have an effect equivalent to the damage caused to its workers.

Attached herewith:

14.1. Certificate of validity of the trade union.

14.2. Mediation agreement on anti-union practices.

## **15. Refusal by the authorities and employers to provide trade unions with the necessary means to carry out legitimate activities, including material means such as a legal**

### **domicile, adequate office space and facilities with electricity and telecommunications equipment suitable for holding large-scale meetings with members**

Despite the request for the State to lease premises for the activities of the federations and confederations associated with the CAT in the Metropolitan and other regions, no premises were provided. Two of the four legally existing confederations had been granted spacious and well-equipped premises for the comfortable operation of these organizations, with sufficient space to hold large assemblies in the metropolitan region, but this was done by the previous governments. Moreover, the current Government has granted premises to other social organizations in various regions, highlighting discrimination that is intolerable and unacceptable in a democratic country.

### **16. Denial of the right of national trade union organizations to participate in international meetings and national tripartite forums, and in negotiations on public sector adjustments and minimum wage adjustments; the privileging of one organization, and discriminatory practices, must stop**

Successive Chilean governments have been entrenching a very harmful practice in the country, which is to negotiate with organizations that share their political views and exclude independent organizations, as well as those that have different political affiliations or are distanced from the incumbent Government, from participating in the annual minimum wage negotiations. When the coalition was in power, only members of the governing parties could participate, with some exceptions, and that remains the case today. In the most recent minimum wage negotiations, the Government did not involve anyone except its allies. The same thing happened in the public sector negotiations after two petitions were submitted. Third-tier Government officials, who met with the organizations in question to ease the negotiations, opted to negotiate with one and to meet with and notify the CAT, but the adjustment had already been agreed upon with another organization just a few floors above.

Negotiations with public sector workers have resulted in below-inflation agreements. As economists have indicated, this represents a real wage cut of more than 5 per cent. This appears to be the main reason behind the Government's determination to pay public sector workers less and less while calling on its allies to give the impression that negotiations have taken place. In reality, there is a conspiracy to reduce the real value of wages with the support of a sympathetic or pro-Government trade union.

## **II. Legal background and normative foundations**

### **1. Principles of labour law**

The principles of labour law are essential guidelines that inform the entire system of labour regulation and act as mechanisms for protection and balance in labour relations. The most relevant are:

- The protective principle: This is the cornerstone of labour law. It is manifested in the idea that, in the face of factual inequality between employer and worker (due to the economic power of the former), the law must seek to achieve a balance by protecting the employee. It is reflected in three principles:
  - In *dubio pro operario*: In case of doubt concerning the interpretation of a legal standard, the interpretation most favourable to the worker must be chosen.

- Most favourable standard: If two or more standards apply to the same situation, the one that is most beneficial to the worker shall apply.
- Most favourable term: New standards cannot lessen existing working conditions that are more favourable to the worker.
- The principle of the non-waiver of rights: Workers cannot voluntarily waive the rights granted to them by labour law. This seeks to prevent the weaker party from being pressured into giving up fundamental rights.
- The principle of continuity of the employment relationship: The aim is to ensure that the employment relationship is stable and long-standing, prioritizing the worker's tenure and limiting the employer's powers to terminate it.
- The principle of the primacy of fact: In the event of a discrepancy between what happens in practice and what is stated in documents or agreements, preference must be given to the facts.
- The principle of reasonableness: This implies that decisions and actions in the workplace must be logical, fair and proportionate, avoiding arbitrariness.
- The principle of good faith: Both employers and workers must act with loyalty, honesty and integrity in the development of the employment relationship and in negotiation processes.
- The principle of freedom of association: This recognizes the right of workers and employers to form and join trade unions, as well as to carry out their activities without interference, in order to defend their collective and professional interests. This principle is of crucial importance for collective bargaining.

### Collective bargaining

Collective bargaining is a fundamental process in labour relations that allows employers and workers' organizations (trade unions) to discuss and agree on employment and working conditions, as well as the regulation of labour relations. The process generally culminates in a collective agreement or collective contract, which has the force of law for the parties and establishes working conditions that generally improve on the minimum legal requirements.

The influence of labour law principles on collective bargaining

The principles of labour law not only govern individual labour relations but also have a decisive influence on collective bargaining:

- The protective principle: This is manifested in collective bargaining by ensuring that collective agreements cannot lessen the minimum conditions established by law. On the contrary, they seek to exceed them by establishing additional benefits for workers.
- The non-waiver principle: Agreements reached in collective bargaining, like the law, establish rights that workers cannot waive individually.
- The principle of freedom of association: This is the very basis of collective bargaining. Without freedom of association to organize and represent the interests of workers, collective bargaining would be ineffective or non-existent. This principle guarantees the right of trade unions to bargain freely and without interference.
- The principle of good faith: This is essential at the negotiating table. Both parties are obliged to bargain in good faith by sitting at the table with the genuine intention of reaching an

agreement, providing the necessary information and refraining from unfair practices that hinder the process.

- The principle of the primacy of fact: In the application of collective agreements, what actually happens in the enterprise takes precedence over what is recorded in writing, if there is a discrepancy.
- The principle of continuity: Collective agreements often establish mechanisms to ensure the stability of agreed working conditions and often seek to maintain employment.

In summary, the principles of labour law act as a protective and guiding framework for collective bargaining, ensuring that it is an effective instrument for improving working conditions and balancing relations between capital and labour. Collective bargaining, in turn, is a key manifestation of collective autonomy and freedom of association, which are fundamental rights in the workplace.

## 2. ILO Conventions Nos 87, 98, 151 and 135

ILO Conventions Nos 87 and 98 are two of the fundamental Conventions and essential pillars of international labour law. Together, they establish the principles of freedom of association and the right to organize and bargain collectively, which are crucial to the existence and effective functioning of collective bargaining at the global level.

### Convention No. 87: Freedom of association and protection of the right to organise (1948)

Convention No. 87 is the international instrument that enshrines the fundamental right to freedom of association. Its key principles are:

- Freedom of association and affiliation: It recognizes the right of workers and employers to form and join organizations of their choice, without previous authorization and without distinction. This implies the freedom to choose the form of organization, its constitutions and rules.
- Trade union autonomy: Workers' and employers' organizations have the right to draw up their constitutions and rules, freely elect their representatives, organize their administration and activities, and formulate their programmes without interference from the public authorities. The dissolution or suspension of these organizations by administrative authority is prohibited.
- Freedom to form federations and confederations: The right of primary organizations to form federations and confederations, as well as to affiliate with them and with international workers' and employers' organizations, is recognized.
- Protection against state interference: Member States undertake to take all necessary and appropriate measures to ensure the free exercise of the right to organize and to refrain from any interference which would restrict this right or impede the lawful exercise thereof.

With regard to collective bargaining, Convention No. 87 is a *sine qua non* for the existence and effectiveness of collective bargaining. Without the fundamental right to freedom of association – that is, without the possibility for workers to organize freely in independent trade unions – there would be no parties capable of conducting collective bargaining on equal terms and in a representative manner. The Convention guarantees the existence of valid counterparts on the part of the workers.

### Convention No. 98: Right to organise and collective bargaining (1949)

Convention No. 98 complements Convention No. 87 and focuses specifically on the protection of the right to organize and the promotion of collective bargaining. Its main provisions are:

- Protection against acts of anti-union discrimination: Workers must enjoy adequate protection against acts of anti-union discrimination which would undermine trade union freedom in relation to their employment. This includes the prohibition of making employment conditional on non-membership of a trade union or on relinquishment of trade union membership, as well as the prohibition of causing the dismissal or otherwise prejudicing a worker by reason of union membership or participation in union activities.
- Protection against acts of interference: Workers' and employers' organizations must enjoy adequate protection against any acts of interference by each other. This seeks to prevent employers or employers' organizations from promoting the establishment of trade unions dominated by employers or employers' organizations ("yellow unions") and from supporting them financially with the aim of controlling or limiting their autonomy.
- Promotion of collective bargaining: Member States must take measures appropriate to national conditions to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations, and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective contracts.

With regard to collective bargaining, Convention No. 98 directly promotes and protects collective bargaining as a mechanism for regulating conditions of employment. By prohibiting anti-union discrimination and interference, it ensures that trade unions can operate freely and that collective bargaining takes place in a framework of equality and good faith, without undue pressure from employers.

It establishes the duty of states to create an environment conducive to voluntary negotiation between parties.

Conventions Nos 87 and 98 are interdependent and form the basis of international labour law on collective relations. Their combined impact on collective bargaining is profound:

Legal basis and protection: They provide an international legal framework that guarantees the right to collective bargaining and protects the parties involved (trade unions and employers) from interference and discrimination.

1. Autonomy of the parties: They reinforce the autonomy of trade union organizations and employers' organizations to freely determine the strategies and content of their negotiations, without excessive state intervention.
2. Balance of power: By protecting freedom of association and promoting bargaining, they contribute to balancing power between employers and workers, allowing the latter to participate, through their representatives, in setting their working conditions.
3. Promotion of social dialogue: They encourage social dialogue as the preferred means of resolving labour disputes and reaching agreements that benefit both parties, contributing to social peace and stability.
4. Development of national systems: They have prompted many countries to adapt their national legislation to guarantee these rights, influencing the structure and scope of collective bargaining systems globally.

In summary, Convention No. 87 lays the foundation by guaranteeing the existence of free and independent trade unions, while Convention No. 98 ensures that these organizations can exercise their right to collective bargaining without hindrance and on equal terms. Both are essential for a democratic and fair labour relations system in which collective bargaining plays a central role in determining working conditions.

### Supervisory role of the Labour Directorate

Chile's Labour Directorate plays a fundamental role in monitoring and ensuring compliance with labour standards, including those relating to collective bargaining.

The Labour Directorate's mission is:

- To promote, protect and guarantee labour rights, incorporating a gender perspective and implementing mechanisms that strengthen social dialogue, and to oversee effective compliance with labour, social security and occupational health and safety legislation, thereby enabling the development of fair and equitable labour relations models between workers, employers and trade unions.

The Labour Directorate's strategic objectives are:

- To guarantee decent work and fair working conditions by monitoring compliance with labour, social security and occupational health and safety legislation by handling complaints in a timely, efficient and effective manner through the use of information technologies that enable the application of inspection intelligence, both for reactive inspection processes and for ex officio inspection by programme, and by incorporating electronic inspection as a tool with broad coverage.
- To define the substance and scope of labour legislation through the issuing of legal rulings, incorporating a gender perspective and contributing to the development of fair labour relations between workers, employers and trade unions.
- To Improve the quality and increase the coverage of products and services that directly serve users, actively incorporating their perspective, and diversifying and promoting gender-focused citizen participation mechanisms that make it possible to gather citizens' views on policies, programmes and issues that affect them.
- To promote tripartite social dialogue through alternative dispute resolution systems, working groups and regional tripartite councils of users, which contribute to promoting decent work by incorporating a gender perspective.

### I. Proposals for legislative amendments

In view of the factual and legal background set out above, we request the immediate implementation of all the Conventions on freedom of association and collective bargaining ratified by Chile.

The manner in which this should be effected by the Labour Directorate – which, like the Ministry of Labour, is primarily responsible for this task – must be decided by the Government, but there is sufficient legal provision in domestic legislation to allow this to be done swiftly through the interpretation of the standards by the Labour Directorate in the context of the current legal system, for example by defining the substance of standards that violate international Conventions and by tacitly repealing all standards that conflict with and/or violate the rights granted by ILO Conventions Nos 87, 98, 135 and 151. Chilean workers have been waiting

26 years for this to happen, and the rights granted to them by international Conventions have still not been implemented.

In accordance with the provisions of the Chilean Civil Code, in particular those relating to the repeal of the law, we consider it possible to tacitly repeal laws if there is a willingness on the part of the Government to do so.

This presupposes that, as ILO Conventions Nos 87, 98, 151 and 135 are prevailing law in Chile, there can be no domestic legislation contrary that contradicts them; any legislation that contravenes the standards set out in those Conventions should be tacitly repealed by this or other non-legislative means, because Congress has already made them law.

- Section 314 of the Labour Code: repeal. Collective bargaining is clearly weakened by this provision, which fragments the bargaining process, constitutes an attack on union rights, and permits and legalizes covert anti-union practices.
- Section 357 of the Labour Code: repeal of the phrase “except under the conditions established under this section” in paragraph (a). Repeal of paragraphs 2–7.
- Section 359 of the Labour Code: repeal of paragraph 1.
- Section 364 of the Labour Code: repeal of paragraphs 4, 5 and 7, which prevent trade unions from exercising their right to organize their activities and formulate their programmes; it arbitrarily defines who the trade union negotiating committee should.
- Section 408 of the Labour Code:

In these circumstances, the Workers’ delegates present at the 113th Session of the International Labour Conference and named at the beginning of this submission feel compelled to lodge this complaint against the Government of Chile, under article 26 of the ILO Constitution, for failure to comply with ILO Conventions Nos 87 and 98.

To this end, we request that the Governing Body appoint a Commission of Inquiry to consider the complaint. The complainants reserve the right to submit additional information hereto at the appropriate time.

Articles 26–29 and 31–34 of the ILO Constitution set out the procedure by which Workers’ delegates may lodge complaints against governments. These articles provide for the appointment of a Commission of Inquiry and set out its mandate and functions.

### Proposals for urgent measures

The situation described is so serious that the ILO’s intervention is also necessary in defining urgent situations that seriously violate the rights of women workers in ongoing collective bargaining processes.

We therefore request:

- Annulment of the decisions of the Labour Directorate that are currently being challenged.
- Issuance of a ruling allowing trade unions to vote on strike action when there are normative disputes, and application of section 340(g) of the Labour Code.
- In negotiations with Soser, the appointment of a certifying officer for the strike vote; compliance with the judicial complaint.

- Payment of compensation by the Government to women workers and unions for the losses suffered as a result of its negligence, for which State bodies, the Labour Directorate and JUNAEB are liable.
- Action in relation to workers and unions affected by negotiations between Aliservice, Alimab, Departamental, Fedir Chile and Soser.
- The reinstatement of the women workers dismissed from Aliservice in 2024.
- The issuance of an order to act lawfully in current court proceedings.
- The issuance of directives to regulate and clarify the actions of the labour inspectorates.
- The establishment of procedures to investigate the unlawful and arbitrary actions of Chilean Government officials.

Therefore:

By virtue of the factual and legal background set out above, a complaint is hereby filed against the Government of Chile for violation of the right to collective bargaining and freedom of association under article 26 of the ILO Constitution, we hereby request the Governing Body:

- I. To appoint a Commission of Inquiry, pursuant to articles 26–29 and 31–34 of the ILO Constitution, which provide for the procedure by which Workers’ delegates may lodge a complaint. These articles provide for the appointment of a Commission of Inquiry and set out its mandate and functions.

We, the undersigned, Workers’ delegates of Peru and Panama to the 113th Session of the International Labour Conference, whose signatures appear at the end of this paragraph, responding to the express request of the trade unions, which have been victims of serious and repeated violations of the rights established in ILO Conventions Nos 87, 98, 135 and 151 ratified by the Government of that Chile in 1999, submit this representation under the ILO Constitution and request the appointment of a Commission of Inquiry for Chile, and request that procedures are set in motion by the ILO to appoint the said Commission of Inquiry.

This is to request the Government of Chile to proceed to:

- 1.1. Order the application of the Conventions on freedom of association ratified by Chile and in force, namely ILO Conventions Nos 87, 98, 151 and 135.
- 1.2. Proceed with the tacit repeal of the following standards:
  - Section 314 of the Labour Code: repeal. Collective bargaining is clearly weakened by this provision, which fragments the bargaining process, constitutes an attack on union rights, and permits and legalizes covert anti-union practices.
  - Section 357 of the Labour Code: repeal of the phrase “except under the conditions established under this section” in paragraph (a). Repeal of paragraphs 2–7.
  - Section 359 of the Labour Code: Repeal of paragraph 1.
  - Section 364 of the Labour Code: Repeal of paragraphs 4, 5 and 7, which prevent trade unions from exercising their right to organize their activities and formulate their programmes; it arbitrarily defines who the trade union negotiating committee should be.
  - Section 408 of the Labour Code:
- 1.3. Request the Government of Chile to urgently take the following measures:

- Annulment of decisions of the Labour Directorate that are currently being challenged.
- Issuance of a ruling allowing trade unions to vote on strike action; the application of section 340(g) of the Labour Code.
- In negotiations with Soser, the appointment of a certifying officer for the strike vote; compliance with the judicial complaint.
- Payment of compensation by the Government to women workers and unions for the losses suffered as a result of its negligence, for which State bodies, the Labour Directorate and JUNAEB are liable.
- Action relating to the workers and unions affected by negotiations between Aliservice, Alimab, Departamental, Fedir Chile and Soser:
  - Reinstatement of the women workers dismissed from Aliservice.
  - Issuance of an order to act lawfully in current court proceedings.
  - Issuance of directives to regulate and clarify the actions of the labour inspectorates.
  - Establishment of procedures to investigate the unlawful and arbitrary actions of Chilean Government officials.

*(Signed)* Republic of Peru  
(Workers' delegate)

*(Signed)* Republic of Panama  
(Workers' delegate)