



Governing Body

357th Session, Geneva, 12 and 13 June 2026

Institutional Section

INS

Date: 13 June 2026

Original: Spanish

Eighth item on the agenda

Reports of the Director-General concerning institutional matters

Third report: Report of the Committee set up to examine the representation alleging non-observance by Argentina of the Indigenous and Tribal Peoples Convention, 1989 (No. 169)

► Contents

	Page
I. Introduction	3
II. Draft decision	4
III. Examination of the representation	4
A. The complainants' allegations	4
B. The Government's reply	8
IV. The Committee's conclusions	11
V. The Committee's recommendations	16

► I. Introduction

1. In a communication received by the International Labour Office on 27 September 2022, the Confederation of Workers of Argentina (CTA), the Association of State Workers (ATE), the Association of State Workers of the Province of Córdoba (ATE Córdoba) and the Press Trade Union Centre (CISPREN) of the Province of Córdoba made a representation under article 24 of the ILO Constitution alleging non-observance by Argentina of the Indigenous and Tribal Peoples Convention, 1989 (No. 169). The Convention was ratified by Argentina on 3 July 2000 and remains in force.
2. Furthermore, in communications received on 12 June and 7 July 2023, and on 29 September and 11 December 2025, the complainant organizations provided additional information.
3. The Government sent its observations on the representation in communications received on 3 May and 15 September 2023.
4. The following provisions of the ILO Constitution relate to the representation procedure:

Article 24

Representations of non-observance of Conventions

In the event of any representation being made to the International Labour Office by an industrial association of employers or of workers that any of the Members has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party, the Governing Body may communicate this representation to the government against which it is made, and may invite that government to make such statement on the subject as it may think fit

Article 25

Publication of representation

If no statement is received within a reasonable time from the government in question, or if the statement when received is not deemed to be satisfactory by the Governing Body, the latter shall have the right to publish the representation and the statement, if any, made in reply to it.

5. In accordance with article 1 of the [Standing Orders concerning the procedure for the examination of representations under articles 24 and 25 of the ILO Constitution](#), the Director-General acknowledged receipt of the representation, informed the Government of Argentina thereof and brought the representation before the Officers of the Governing Body.
6. At its 346th Session (October–November 2022), the Governing Body considered that the representation was receivable and decided to set up a tripartite committee to examine it.¹ The Committee is composed of Mr Salvador H. Martínez Santamaría (Government member, Dominican Republic), Mr Guido Ricci (Employer member, Guatemala) and Mr Rafael Lamas (Worker member, Belgium).
7. The Committee was informed, in communications of 30 October and 28 November 2023, that the parties had initiated a voluntary conciliation process at the national level. In a communication received on 19 February 2025, the Government informed the Office that the period for national-level conciliation had come to an end and that the procedure had not yielded any results to report.

¹ GB.346/PV, para. 674.

8. The Committee met on 24 March and 14 April 2026 to examine the representation and adopt this report.

► II. Draft decision

9. In the light of the conclusions and recommendations set out in the report of the Committee contained in document GB.357/INS/8/3, the Governing Body:
 - (a) approved the report of the Committee and, in particular, the Committee's conclusions in paragraphs 44, 48, 49 and 51;
 - (b) requested the Government of Argentina to provide the Committee of Experts on the Application of Conventions and Recommendations with information on the matters raised in the report and the Committee's conclusions;
 - (c) decided to make the report publicly available and to close the representation procedure.

► III. Examination of the representation

A. The complainants' allegations

10. The complainant organizations allege the violation of Articles 5, 6, 7, 13, 15 and 17 of Convention No. 169 arising from the construction of the motorway named the "Alternative to Route 38 Costa Azul – La Cumbre section" (also known as the Punilla Motorway) in Santa María de Punilla, in the Province of Córdoba, in an area that includes territories historically inhabited by the Las Ticas, Sonko Kuntur, Siquiman, Arabela and Las Tunas indigenous communities. They allege that the project is causing irreversible damage to the archaeological and cultural heritage of these communities; that it is being undertaken without a cumulative environmental impact assessment and without prior consultation with the affected communities; and that it is taking place in a context marked by police repression and the prosecution of environmental defenders engaged in peaceful protests against the construction of the motorway.
11. The complainant organizations note, in particular, that the Department of the Environment and Climate Change (SAyCC) approved the environmental permit for the project "Costa Azul Alternative – Bridge over San Roque Lake" (File No. 0517-022250 of 2017), which constitutes the first section of the Punilla Motorway project. They state that, on 15 May 2017, an administrative complaint was submitted to the SAyCC alleging irregularities in the administrative procedure leading to the approval of the environmental permit, to which no response was ever received. Subsequently, on 8 August 2017, an application for environmental *amparo* (protection of constitutional rights) was filed, alleging these irregularities.²
12. The complainant organizations state that, on 18 April 2018, the SAyCC convened a public hearing (Resolution No. 167) regarding the project "Alternative to National Route 38: Costa Azul Bridge – La Cumbre, Costa Section", also referred to as the "Pedemontaña Motorway" (File No. 0517-023469 of 2018). They note that this new project was part of a separate administrative

² Second Nomination Administrative Disputes Court – *Amparo* Act No. 4915 – *ISLYMA and others v. the Provincial Government and other* – *Amparo* (File No. 6513191, initiated on 8 August 2017).

file from the previous one and that the SAyCC granted the corresponding permit through Resolution No. 374 of 2018.

13. The complainant organizations state that, in view of the shortcomings that had been identified – particularly the absence of a cumulative environmental impact assessment to evaluate the consequences and impacts of the project over time and along the whole route – another application for *amparo* was filed seeking to suspend the public hearing. This application was rejected by the Cruz del Eje Court, acting as an administrative disputes court.³ The complainant organizations state that the public hearing took place and that 80 per cent of those present were opposed to the project in question.
14. The complainant organizations further state that, during a hearing held in connection with an application for an interim injunction submitted as part of the 2017 environmental *amparo* proceedings,⁴ and amid intense public pressure, the Government announced the suspension of the project and its intention to modify the route. At that hearing, the application for an interim injunction was upheld, calling for the project to be halted pending a decision by the Executive to revoke the environmental permit and to conduct a cumulative environmental impact assessment. The complainant organizations state that the Administrative Disputes Court, by Order No. 109 of 22 April 2019, rejected the application on the grounds that it was premature and that no certainty had been established regarding the alleged environmental damage.⁵ They add that an appeal against this decision was lodged with the High Court of Justice.
15. The complainant organizations state that, on 29 March 2021, another public hearing was convened to examine the environmental impact assessment for the new section of the project (Costa Azul Alternative – La Cumbre). They state that, on that occasion, an application was made to the High Court of Justice to suspend the hearing until the pending appeal had been resolved and the admissibility of the cumulative environmental impact assessment had been established. They allege that the High Court of Justice rejected the application for an interim injunction without examining the substance of the allegations.⁶ Consequently, between April and May 2021, an online public hearing took place, at which 509 participants took the floor over 27 sittings. According to the complainant organizations, the majority of participants were opposed to the project and to the environmental impact assessment; nevertheless, the SAyCC approved the assessment and issued the environmental permit, through Resolution No. 192 of 12 July 2021.
16. The complainant organizations state that, on 11 February 2022, the tender envelopes for the project were opened by the enterprise Caminos de las Sierras S.A. (hereinafter “the enterprise”) and that, on 12 March 2022, the Council of Communities of Indigenous Peoples of the Province of Córdoba informed the enterprise of the failure to comply with the prior consultation requirement.
17. The complainant organizations report the following incidents in connection with the motorway construction project:

³ *Fernando Humberto Slongo and others v. the Provincial Government of Córdoba and others* – Amparo (File No. 7160683).

⁴ Second Nomination Administrative Disputes Court – Amparo Act No. 4915 – *ISLYMA and others v. the Provincial Government and other* – Amparo (File No. 6513191, initiated on 8 August 2017).

⁵ Second Nomination Administrative Disputes Court – Amparo Act No. 4915 – *ISLYMA and others v. the Provincial Government and other* – Amparo (File No. 6513191, initiated on 8 August 2017).

⁶ Electoral and Original Jurisdiction Court – High Court – *ISLYMA and others v. the Provincial Government and other* – Amparo (File No. 6513191).

- 28 April 2022: the establishment of construction sites in the River Yuspe reserve without prior consultation;
 - May and June 2022: police evictions at the “Molinari environmental camp” and in the San Roque locality;
 - 10 July 2022: acts of police violence against protesters;
 - 23 August 2022: the arrest of 22 environmental defenders during protests when excavation work was taking place using heavy machinery on a protected archaeological heritage site (River Yuspe);
 - 6 September 2022: construction work on an archaeological and palaeontological site that requires maximum protection, and in a red-listed native forest in the community of Santa María de Punilla;
 - the destruction of the “River Yuspe lithic workshop 1” archaeological site and archaeological risk to new sites of high value to the Camiare Comechingón Las Tunas indigenous community in the city of Cosquín;
 - 21 October 2022: alteration of the course of the River Yuspe beyond what was established in the environmental impact assessments, with a makeshift embankment constructed to gain access to the indigenous community’s cultural reserve.
- 18.** The complainant organizations also state that, on 8 November 2022, the enterprise forcibly entered a private residence within the territory of the Las Tunas indigenous community, accompanied by police. Following this incident, round-the-clock work and detonations using explosives began, affecting the environment, homes and vulnerable members of the community, as well as the local wildlife. Furthermore, they allege that, as a result of the detonations, a seven-year-old boy was diagnosed as having multiple epileptic seizures every day and psychomotor agitation, and a mother filed a complaint against the enterprise due to the harm that the dynamite was causing to her children’s health. Furthermore, they state that, on 14 March 2023, the enterprise notified the residents of the Las Tunas community of the removal that same day of the ancient stone walls (pircas), which were destroyed without the involvement of the indigenous community or the authorization of the Córdoba Culture Agency.
- 19.** In addition, the complainant organizations note that, on 17 March 2023, the Second Nomination Administrative Disputes Court of Córdoba admitted the Las Tunas indigenous community as a third party to the environmental *amparo* proceedings relating to the project ⁷ and issued an interim injunction prohibiting construction work on sites of high archaeological value. On 29 March 2023, the Provincial Government of Córdoba called for the indigenous community’s participation to be rejected, on the grounds that the community did not have compelling evidence to demonstrate its indigenous identity or its right to hold community property.
- 20.** Furthermore, the complainant organizations provided a copy of Order No. 218 of 7 July 2023 issued by the Second Nomination Administrative Disputes Court of Córdoba, granting interim measures in favour of the Cosquín–Las Tunas indigenous community and ordering, among other provisions:

⁷ Second Nomination Administrative Disputes Court of Córdoba – *ISLYMA and others v. the Provincial Government and other* – Amparo (File No. 6513191).

- immediate measures to ensure the provision of drinking water to families living and residing in the area affected by the Punilla Motorway project;
 - that the Province of Córdoba ensure that the Cosquín–Las Tunas indigenous community are consulted and participate in the work of the Human Rights Working Group and at meetings with representatives of the Province, the enterprises carrying out the construction work and the Council of Communities of Indigenous Peoples of the Province of Córdoba;
 - the preservation of the water resources supplying water to the territory of the Cosquín–Las Tunas indigenous community;
 - a commitment by the Province of Córdoba and the Córdoba Culture Agency to guarantee the preservation of the cultural heritage of the Cosquín–Las Tunas indigenous community, in accordance with the principle of minimal intervention and maximum preservation;
 - guaranteed access to public information on the environment; and
 - the recovery and return to their owners of the components of the ancient stone walls.
21. Furthermore, the complainant organizations refer to acts of repression and prosecution against members of the indigenous community and environmental human rights defenders engaged in peaceful protests to defend their culture, territories, biodiversity and sacred sites. They emphasize that the project is going ahead despite the filing of legal actions and the lack of mechanisms for participation, dialogue and the submission of complaints at the provincial and municipal levels, which has led to ongoing mobilization to prevent damage and the violation of rights. They state that complaints have been filed alleging arbitrary detention, solitary confinement, injuries, theft and sexual violence, which led to the filing of a collective *habeas corpus* petition owing to the scale of the abuses. They allege, in particular, that, in the Punilla, Paravachasca and Sierras Chicas valleys and in the Pluma Blanca indigenous community, environmental defenders have faced police brutality and the misuse of the judicial system to suppress protests. They state that, of the 18 cases involving environmental defenders charged with protest activities related to the construction of the motorway, 6 have gone to trial (4 of the 18 accused are members of the Executive Committee of the Punilla branch of the CTA and 1 is a member of the Isqon Killa–Nueve Lunas, an indigenous community belonging to the Camiare Nation Peoples).
22. Furthermore, in their communication of December 2025, the complainant organizations allege that the situation has deteriorated and they report that the Provincial Government is continuing with the project, exacerbating the environmental and cultural impact, while legal proceedings against land rights defenders are being upheld and are increasing in number. They refer, in particular, to the territory of the Sikiman-Ancón (Cosquín) community (through which the motorway route passes), where sacred sites, cemeteries and places of healing and ceremonies have been fenced off, violating the collective rights of the affected communities and compromising millennia-old cultural assets and heritage sites. They express concern regarding the persecution and criminalization of the general secretary of the Córdoba branches of the ATE and the CTA, one of the signatories to the present representation.
23. With regard to the right to consultation, the complainant organizations allege that the Government has violated Articles 6, 7 and 15 of Convention No. 169, emphasizing that it must guarantee free, prior and informed consultation before approving any project which may affect the territories of indigenous peoples and must ensure their participation in the management and conservation of natural resources. They state that this obligation derives from various international instruments, as well as from Act No. 26.331 on Native Forests. In

this regard, they specify that, although the 2021 environmental impact assessment approved for the project acknowledges the presence of indigenous communities and lists some of the affected communities, there is no evidence that a prior consultation process was carried out. They note that the environmental impact assessment does not comply with section 24(e) of Act No. 26.331, as it fails to include, in the context of the definition of the project's scope, an up-to-date overview of the indigenous and native peoples or communities inhabiting the area, their physical, biological, social, economic and cultural components; their dynamics and interactions; the environmental issues; and the heritage assets. The assessment mentions them only in vague terms under the heading "historical and social heritage/indigenous peoples".

24. The complainant organizations further consider that the assessments were wrongly limited to establishing physical distances between the construction work and the archaeological sites, disregarding the indigenous concept of territory, which is broad and encompasses the entire region and its spiritual values. They emphasize that the SAYCC, through successive approvals, granted environmental permits in a piecemeal manner for each section, without carrying out a cumulative environmental impact assessment to evaluate the consequences and impacts of the project over time and along the whole route.
25. The complainant organizations point out that the absence of a consultation procedure, coupled with the institutional repression and the judicial harassment of those exercising their right to defend the environment and the territory, constitutes a serious and ongoing violation of Convention No. 169.

B. The Government's reply

26. In a communication received on 3 May 2023, the Government states that there are no affected communities that are registered with the National Institute of Indigenous Affairs (INAI) or in the provincial register in the area covered by the project "Alternative to Route 38: Costa Azul Alternative – La Cumbre section". Such registration is a prerequisite for invoking a legitimate interest in free, prior and informed consultations. In this regard, the Government states that Act No. 10.316 of 2015 established the "Register of Communities of Indigenous Peoples of the Province of Córdoba" and the "Council of Communities of Indigenous Peoples of the Province of Córdoba", and that Decree No. 1260 of 2017 sets out the conditions under which communities may voluntarily register themselves.
27. The Government states that, following the expropriation process undertaken in connection with the project, certain individuals came forward claiming to belong to and/or represent alleged "communities" but were unable to provide conclusive evidence of the legal standing required for such recognition. It notes, however, that the family concerned, as the landowner, had already reached an agreement with the enterprise on the financial aspects of the expropriation through negotiation mechanisms. It also notes that, in view of this situation, a round-table dialogue was established within the framework of the Council of Communities of Indigenous Peoples of the Province of Córdoba, with the participation of accredited communities, the enterprise, the Córdoba Culture Agency and the Department for Human Rights, in order to monitor the project's progress and safeguard cultural and archaeological heritage.

28. The Government highlights that the *Curaca*⁸ of the Ctalamochita community of the Comechingón people and the *Nahuan*⁹ of the Las Ticas community of the Comechingón people – both communities that are duly included in the Register of Communities of Indigenous Peoples of the Province of Córdoba – took part in the online environmental public hearing held in connection with the project between April and May 2021, within the framework of the round-table dialogue. It further states that the minutes of the round-table dialogue show that these communities invoked their right to free, prior and informed consultation. It states that the two representatives have permanent seats in the Council of Communities of Indigenous Peoples, the forum in which the project's implementation is evaluated, and that they have these seats in recognition of the fact that the route includes sites that may be considered "ceremonial or sacred" from the perspective of the interests of the indigenous peoples. In addition, they participated freely in various forums providing access to information, such as the public hearing, the round-table dialogue, the negotiation process with the project manager and the expropriation process.
29. The Government also states that the legal designation of sites as "ceremonial or sacred" is based on decisions taken by the INAI and that areas of high archaeological density (Quilpo, Guasapampa, Ongamira and Cerro Colorado) have been designated as reserves by the Provincial Government, with restrictions placed on land use.
30. The Government indicates that the provincial authority considers that it adopted measures for safeguarding the persons, property, labour and environment of all the peoples affected by the project, in particular indigenous peoples, in accordance with Article 4 of Convention No. 169. It further indicates that technical studies, legal analyses, procedures and negotiations were carried out, ensuring that all the requirements for the approval of the project and the granting of the corresponding environmental permits were met, in accordance with applicable regulations.
31. With regard to the cumulative environmental impact assessment, the Government refers to Resolution No. 192 of 12 July 2021, in which the SAyCC approved the project after having carried out a detailed analysis of all the key factors affecting the implementation of the project. According to this Resolution:
 - (i) Environmental Policy Act No. 10.208 does not explicitly include the concept of a cumulative environmental impact assessment; instead, it defines the minimum content that must be included in an environmental impact assessment;
 - (ii) with regard to the impact on the rights of indigenous peoples and archaeological heritage, it is established that, prior to the preparation of the environmental impact assessment, the enterprise carried out background research and relevant consultations with the Córdoba Culture Agency. In this respect, it is noted that, as the area of concern is one of high archaeological value and given the possibility of archaeological and palaeontological finds along the proposed route, applications were submitted to authorize "archaeological impact studies", covering prospecting and potential excavation work to be carried out as part of the civil engineering works under consideration and containing details of a team, work plan, activities to be carried out and implementation deadlines;

⁸ Chief or leader of an indigenous community.

⁹ Community leader.

- (iii) the Córdoba Culture Agency authorized the archaeological impact assessment in Resolution 029/2021 of 28 January 2021. It also commissioned and authorized the palaeontological impact assessment in Resolution 057/2021 of 24 February 2021;
 - (iv) all the requirements under the applicable regulations were met in a timely and proper manner, including with regard to the obligation to give notice of the project and the environmental impact study; the submission of the relevant technical and legal documentation; the issuance of an administrative notice convening a public hearing; the dissemination of information through various media in advance of that hearing; and the effective holding of the hearing in an online format;
 - (v) the project's feasibility in relation to native forests was duly assessed, leading to the conclusion that, notwithstanding the fact that part of the route will affect areas classified as conservation zones (red- and yellow-listed native forest), the project may be authorized on the condition that the proposed and approved reforestation plan is implemented, and the SAyCC must be informed every six months, starting from the commencement of the works, of the progress made in carrying out the reforestation work.
- 32.** In a communication received on 15 September 2023, the Government forwarded the Córdoba Culture Agency's report of 12 September 2023 on the application of the interim injunction order issued by the Second Nomination Administrative Disputes Court prohibiting construction work on sites of high archaeological and palaeontological value. The report notes that the injunction specifically applied to the ancient stone walls that had been documented and did not require the construction works to be halted or suspended. According to the report:
- on 10 May 2023, the Córdoba Culture Agency responded to a complaint submitted by the Cosquín-Las Tunas indigenous community alleging non-compliance with the interim injunction order. It reported that, on 14 March 2023, a stone wall had been dismantled by a technical team in accordance with the established procedure, the landowner had been duly notified, and the stones had not been buried but carefully placed beside the area where the excavation was carried out;
 - on 14 June 2023, the Province of Córdoba requested authorization to apply the relevant measures and protocols for the removal, transfer and safeguarding of archaeological and palaeontological finds;
 - on 16 June 2023, the court ordered the necessary measures to be taken for the safeguarding and conservation of items of archaeological and palaeontological value;
 - on 7 July 2023, the Second Nomination Administrative Disputes Court, by Order No. 218, called on the Province of Córdoba and the Córdoba Culture Agency to ensure the preservation of the cultural heritage of the Cosquín-Las Tunas indigenous community and to submit the administrative file authorizing the archaeological impact study;
 - on 22 August 2023, the Provincial Government of Córdoba submitted a report to the Second Nomination Administrative Disputes Court, together with a report from the Córdoba Culture Agency, two police reports and a notarial record documenting the procedures carried out in accordance with current legislation. Of particular note is the statement by the Archaeological Area Chief, to the effect that the stone structures located at Kilometre Marker 17+250, identified as remnants of ancient stone walls Nos 7 and 8, do not possess exceptional value; nevertheless, all applicable procedures and protocols were followed.
- 33.** In the report, the Córdoba Culture Agency states that it strictly complied with the court order, noting in particular that it made available to the complainant communities the administrative

file authorizing the archaeological environmental impact assessment, as well as the subsequent reports as the assessment progressed.

► IV. The Committee's conclusions

34. The Committee's conclusions are based on its examination of the allegations made by the complainant organizations and the observations submitted by the Government in the present proceedings.
35. The Committee notes that the complainant organizations allege that: (1) the construction of the motorway named the "Alternative to Route 38: Costa Azul – La Cumbre section" (also known as the Punilla Motorway) in Santa María de Punilla, in the Province of Córdoba, was undertaken without a cumulative environmental assessment (to evaluate the consequences and impacts of all the sections of the project over time and along the whole route) and without prior, free and informed consultation with the affected indigenous communities; (2) the project caused damage to and the destruction of the archaeological and cultural heritage of the indigenous communities; and (3) violence was used and environmental defenders, including those from indigenous communities, were treated as criminals for engaging in protests against the project.
36. With regard to the allegations concerning the absence of a cumulative assessment of the impact of the Punilla Motorway construction project on indigenous communities and the failure to consult these communities, the Committee notes that, according to the complainant organizations:
 - (i) the 2021 environmental impact assessment acknowledges the existence of indigenous communities, but fails to include adequate and up-to-date information on the characteristics of these communities and there is no evidence that a prior consultation process was carried out;
 - (ii) environmental permits were granted by the Department of the Environment and Climate Change (SAyCC) for different sections, without taking into account the majority view expressed at public hearings held to discuss the relevant environmental impact assessments;
 - (iii) no cumulative environmental impact assessment was carried out to evaluate the impacts of the project over time and along the whole route; instead, piecemeal environmental assessments were conducted and applications for environmental amparo were filed seeking interim measures to suspend the public hearings;
 - (iv) the assessments were wrongly limited to establishing the "physical distances" between the construction work and the archaeological sites, disregarding the indigenous concept of "territory";
 - (v) the Council of Communities of Indigenous Peoples of the Province of Córdoba expressly found that there had been a failure to carry out prior consultation with the indigenous peoples and informed the enterprise of that finding; and
 - (vi) the Second Nomination Administrative Disputes Court of Córdoba, in a decision of 17 March 2023, admitted the Las Tunas indigenous community as a third party to the environmental amparo proceedings relating to the project.

37. The Committee also notes that the Government states that, as there are no duly registered indigenous communities within the area covered by the project, nor any that have conclusively demonstrated the necessary legal standing, the right to free, prior and informed consultation cannot be invoked. The Government refers to the establishment of a round-table dialogue in the context of the Council of Communities of Indigenous Peoples of the Province of Córdoba, with the participation of the *Curaca* of the Ctalamochita community of the Comechingón people and the *Nahuan* of the Las Ticas community of the Comechingón people, representing two accredited communities; the enterprise carrying out the project; and the relevant provincial authorities. The two representatives had permanent seats in the Council – the forum in which the project's implementation is monitored with the aim of safeguarding cultural and archaeological heritage – and invoked the right to free, prior and informed consultation. They also participated in the online public environmental hearing and had access to information relating to the project. The Government states that the resolution issued by the SAyCC granting the environmental permit took into account the impact of the project on the rights of indigenous peoples and their archaeological heritage. It notes that, as the area concerned was one of high archaeological value and given the possibility of archaeological and palaeontological finds along the proposed route, archaeological and palaeontological impact assessments were commissioned, which were authorized by the Córdoba Culture Agency.
38. The Committee notes that the Government considers that all the requirements under the applicable legislation were met, including with regard to the obligation to give notice of the project, the issuance of an administrative notice convening a public hearing, the dissemination of information through various media in advance of that hearing, and the effective holding of the hearing in an online format. It also notes that the Government states that the Environmental Policy Act No. 10.208 does not explicitly include the concept of a cumulative environmental impact assessment, but instead defines the minimum content that must be included in an environmental impact assessment.
39. The Committee wishes to recall, in relation to assessments of the impact that planned development activities may have on indigenous peoples, that Article 7(3) of Convention No. 169 provides that:
3. Governments shall ensure that, whenever appropriate, studies are carried out, in co-operation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned development activities. The results of these studies shall be considered as fundamental criteria for the implementation of these activities.
40. The Committee notes that, despite the preparation of two environmental impact assessments covering different sections of the motorway, as well as the holding of public hearings – which are not binding in nature – to discuss the assessments, the information provided indicates neither how the assessments were carried out in cooperation with all the indigenous communities concerned, nor how the results of the assessments were considered as fundamental criteria for the implementation of the project, as is required under Article 7(3) of Convention No. 169. Indeed, the Committee notes that the process of granting environmental permits for two sections of the motorway met with opposition and was the subject of legal proceedings, which even resulted in the involvement of the Cosquín–Las Tunas indigenous community, which had not been considered by the authorities. Furthermore, the Committee notes that the authorities included only two registered communities in the public hearings, which indicates that there was a failure to cooperate with all the indigenous communities that may be affected by the project. The Committee also considers that this lack of cooperation might have affected the proper identification of the social, spiritual, cultural and environmental

impact that the project may have on the indigenous communities concerned, and the identification of the measures necessary to mitigate the impacts of the motorway's construction. The decisions of the Second Nomination Administrative Disputes Court regarding the protection and preservation of archaeological heritage, a topic that is discussed further below, show that the full impact of the project was not taken into account.

41. With regard to the allegations concerning the lack of consultation, the Committee recalls that the right of indigenous peoples to be consulted is enshrined in Article 6 of Convention No. 169, as follows:
 1. In applying the provisions of this Convention, governments shall:
 - (a) consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly;
 - ...
 2. The consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures.
42. The Committee recalls that there are affected indigenous communities in the area covered by the Punilla Motorway project. Consequently, there was an obligation to consult those communities in accordance with Convention No. 169 in respect of administrative decisions which may affect them directly. The Committee notes in this regard that consultations must be formal, full and conducted in good faith; and that there must be a genuine dialogue between governments and indigenous and tribal peoples characterized by communication and understanding, mutual respect and a sincere desire to reach a common agreement.
43. The Committee considers that the public environmental hearing that was held does not, in itself, amount to a consultation process with the indigenous communities that may be affected by the administrative decisions related to the project. The Committee also notes that, during the round-table dialogue established within the framework of the Council of Communities of Indigenous Peoples of the Province of Córdoba to monitor the implementation of the project, the indigenous communities requested prior, free and informed consultation. In this regard, the Committee notes that only two accredited communities participated in the dialogue and that other communities – such as the Cosquín-Las Tunas indigenous community, which the Second Nomination Administrative Disputes Court considered to be affected by the project and for which it issued an interim injunction – did not take part. The Committee further recalls that the obligation to consult indigenous peoples must be fulfilled before the adoption or enactment of any administrative measure that may directly affect them. Furthermore, it emphasizes the importance of the parties engaging in consultation processes in good faith.
44. ***Consequently, the Committee calls upon the Government to take the necessary measures to ensure that, in accordance with Articles 6 and 7 of Convention No. 169, in the context of future projects of a similar nature, it is guaranteed that: (i) studies to assess the social, spiritual and cultural and environmental impact of planned development activities on indigenous communities are carried out as early as possible, with the cooperation of all the indigenous communities concerned; and (ii) whenever development activities directly affect communities, these communities are consulted through appropriate procedures. The Committee emphasizes in this context that the protection afforded by the Convention extends to all indigenous communities, regardless of their legal status.***
45. With regard to the alleged lack of protection for archaeological sites and cultural heritage, the complainant organizations state that the construction of the Punilla Motorway cut through and

destroyed ancestral lands, archaeological and palaeontological remains, and sacred and ceremonial sites of indigenous communities. In particular, they refer to:

- the impact on areas that require maximum protection from an archaeological and palaeontological point of view in a protected archaeological heritage site (River Yuspe) and in the community of Santa María de Punilla;
- the destruction of the “River Yuspe lithic workshop 1” archaeological site, which is of significant archaeological value to the Camiare Comechingón Las Tunas indigenous community in the city of Cosquín;
- the alteration of the course of the River Yuspe beyond what was established in the environmental impact assessments, using a makeshift embankment;
- the felling of a red-listed native forest;
- the removal and destruction of ancient stone walls without community involvement or authorization;
- the carrying out of excavation work using heavy machinery and explosives in areas of high heritage value;
- the fencing off, in the territory of the Sikiman-Ancón (Cosquín) community, through which the motorway route passes, of sacred sites, cemeteries and places of healing and ceremonies.

46. The Committee notes that, according to the Government, institutional and technical measures were taken to safeguard the cultural and archaeological heritage. The Government states in particular that: (1) the removal of certain ancient stone walls was carried out in accordance with the applicable procedures, and the relevant protocols for the protection, relocation and conservation of finds were followed; (2) areas of high archaeological density (Quilpo, Guasapampa, Ongamira and Cerro Colorado) were designated as reserves by the Provincial Government and restrictions were placed on land use; and (3) the interim injunction issued by the Administrative Disputes Court of Córdoba was complied with and measures were taken to safeguard cultural heritage in the context of the project’s implementation, which were in accordance with applicable regulations. The Government refers in particular to the removal, transfer and safeguarding of the archaeological and palaeontological remains found.

47. The Committee recalls that several Articles of Convention No. 169 refer to the recognition and protection of the social, cultural, religious and spiritual values and practices of indigenous peoples, as well as their institutions, property, cultures and the environment. Specifically:

Article 4

1. Special measures shall be adopted as appropriate for safeguarding the persons, institutions, property, labour, cultures and environment of the peoples concerned.
2. Such special measures shall not be contrary to the freely-expressed wishes of the peoples concerned.

...

Article 5

In applying the provisions of this Convention:

- (a) the social, cultural, religious and spiritual values and practices of these peoples shall be recognised and protected, and due account shall be taken of the nature of the problems which face them both as groups and as individuals;

...

48. In this regard, the Committee notes that, following the court decision (interim injunctions to protect the cultural heritage of the Cosquín-Las Tunas indigenous community, including the preservation of water resources, and the recovery and return to their owners of the components of the ancient stone walls), the Government has reportedly taken measures to safeguard the archaeological remains found. ***The Committee calls on the Government, in accordance with the provisions of Articles 4 and 5 of Convention No. 169, to continue to ensure, in cooperation with the communities concerned, the safeguarding of the identified elements of the cultural heritage of all indigenous communities affected by the project.***
49. With regard to the allegation that, in the context of the protests against the construction of the Punilla Motorway, evictions and acts of repression were carried out by the police, involving the misuse of the criminal justice system to suppress social protests (among other incidents, reference is made to evictions at the “Molinari environmental camp”; police interventions in San Roque and episodes of violence against demonstrators as the project progressed, including arrests of environmental defenders in the area of the River Yuspe archaeological site; arbitrary detentions, injuries and other abuses, which reportedly led to the filing of a collective *habeas corpus* petition; and the prosecution of several environmental defenders, including a member of an indigenous community and the general secretary of the Córdoba branches of the ATE and the CTA), the Committee notes that the Government has not submitted its observations. ***The Committee calls on the Government to provide information in this regard in its next report on the application of Convention No. 169.***
50. The Committee notes that the complainant organizations have not provided specific information on the circumstances of the protests that would enable it to determine to what extent these are specifically linked to claims relating to the rights enshrined in Convention No. 169. In general, the Committee deplores any form of violence arising in the context of the implementation of the Convention. In this regard, the Committee recalls that cooperation with indigenous peoples in the context of carrying out impact assessments and conducting adequate consultations regarding projects that may affect them is key to fostering genuine dialogue, avoiding conflict and providing the climate of trust necessary for the implementation of such activities, within the framework of respect for the rights enshrined in the Convention.
51. ***In this regard, the Committee trusts that, in the context of future development activities of a similar nature, the Government will take appropriate measures to prevent any form of violence and to ensure that the opportunities for dialogue and participation provided for in Convention No. 169 are guaranteed, thereby fostering a climate of trust with the indigenous communities concerned and enabling them to fully exercise their rights.***

► V. The Committee's recommendations

- 52. In the light of the considerations on which the Committee's conclusions set out in paragraphs 43, 47, 48 and 50 are based, the Committee recommends that the Governing Body:**
- (a) approve the present report and, in particular, the Committee's conclusions in paragraphs 44, 48, 49 and 51;**
 - (b) request the Government to provide the Committee of Experts on the Application of Conventions and Recommendations with information on the matters raised in the report and the Committee's conclusions;**
 - (c) make the present report publicly available and close the representation procedure.**

Geneva, 14 April 2026

(Signed) Mr Salvador Martínez Santamaría
(Government member)

Mr Guido Ricci
(Employer member)

Mr Rafael Lamas
(Worker member)