



Governing Body

340th Session, Geneva, October–November 2020

Institutional Section

INS

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Nineteenth item on the agenda

Reports of the Officers of the Governing Body

Ninth report: Follow-up to the representation alleging non-observance by Chile of the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)

1. By a communication dated 18 November 2016, the College of Teachers of Chile AG made a representation to the International Labour Office under article 24 of the ILO Constitution alleging non-observance by Chile of the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187).
2. In accordance with article 1 of the Standing Orders concerning the procedure for the examination of representations, as revised by the Governing Body at its 291st Session (November 2004), the Director-General acknowledged receipt of the representation and informed the Government of Chile accordingly. Pursuant to article 2(1) of the Standing Orders, the Director-General brought the representation before the Officers of the Governing Body. The Officers of the Governing Body considered the representation to be receivable, pursuant to article 2(2) of the Standing Orders and reported to the Governing Body, in accordance with article 2(3) of the Standing Orders. By virtue of article 2(4) of the Standing Orders, the Governing Body declared the representation receivable.
3. The Governing Body considered that the representation related to facts and allegations similar to those which have been the subject of an earlier representation alleging non-

observance by Chile of Convention No. 187, made under article 24 of the ILO Constitution by the College of Teachers of Chile AG.¹ The Governing Body postponed the appointment of a tripartite committee to examine the new representation and invited the Committee of Experts on the Application of Conventions and Recommendations (CEACR) to examine the allegations contained in the latest communication from the College of Teachers AG, in the context of the follow-up given to the recommendations relating to the previous representation submitted by the College of Teachers, at its November–December 2017 session.²

4. At its November–December 2017 session, the CEACR examined the allegations contained in the communication from the College of Teachers AG, as well as the information provided by the Government in that respect.
5. At its 333rd Session (June 2018), the Governing Body decided to once again postpone the appointment of the committee charged with examining the new representation. It invited the CEACR to examine, at its 90th Session (November–December 2019), the application by Chile of Convention No. 187 and it invited the Government of Chile to provide the CEACR with further information on the issues raised in document GB.333/INS/8/1 with regard to the application of the Convention.³
6. The CEACR, at its 90th Session (November–December 2019), noted the information in the Government's report that it had made a formal consultation with the Ministry of Education and the Social Security Undersecretariat with a view to getting background information regarding the representation made under article 24. The CEACR requested the Government to provide this up-to-date information once available, particularly on the consultations held on the development of the teaching appraisal process established by the Teaching Careers Act, and on the progress made in the formulation of regulations to determine non-teaching curricular hours, in consultation with the most representative employers' and workers' organizations. The CEACR asked the Government to reply in full in 2020. The comments of the CEACR are contained in the appendix.
7. Taking into account the above, the Officers of the Governing Body consider that the appointment of the committee charged with examining the new representation could once again be postponed pending further examination by the CEACR at its 91st Session.
8. Moreover, in view of the fact that four years have lapsed since the representation was filed, and consistent with article 3(3) of the Standing Orders, which seeks to ensure a more definite time of postponement of appointment of a tripartite committee to examine a representation, the Officers propose that the Governing Body shall consider without further delay the appointment of a tripartite committee at its March 2021 session.

¹ GB.326/INS/15/6.

² GB.329/PV, para. 400.

³ GB.333/PV, para. 115.

► Draft decision

9. In light of the information provided in document GB.340/INS/19/9 and on the recommendation of its Officers, the Governing Body decided to:
 - (a) postpone once again the appointment of the committee charged with examining the new representation pending further examination by the Committee of Experts on the Application of Conventions and Recommendations (CEACR) at its 91st Session (November–December 2020) of the follow-up given to the recommendations previously adopted by the Governing Body; and
 - (b) consider the appointment of a tripartite committee at its 341st Session (March 2021).

► Appendix

Direct Request (CEACR) – adopted in 2019, published for the 109th Session of the International Labour Conference (2021)

Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) – Chile (Ratification: 2011)

Follow-up to the decision of the Governing Body (representation made under article 24 of the Constitution of the ILO)

Article 4(1) and (2) of the Convention. National OSH system. The Committee recalls that the Governing Body approved, in March 2016, the report of the committee set up to examine the representation alleging non-observance by Chile of [Convention No. 187](#), made under article 24 of the ILO Constitution by the College of Teachers of Chile AG (GB.326/INS/15/6). Subsequently, in November 2016, the College of Teachers of Chile AG made a second representation under article 24 of the ILO Constitution, in which it alleged non-observance by Chile of the recommendations relating to several issues raised in the previous representation. In March 2017, the Governing Body, on the recommendation of its Officers, found that the second representation was receivable. It postponed the decision to appoint a tripartite committee to examine the new representation and invited this Committee to examine the allegations contained in the latest communication from the College of Teachers of Chile AG, in the context of the follow-up given to the recommendations relating to the previous representation (GB.329/INS/21/3).

In the Committee's subsequent examination, it noted that, in the latest representation, the College of Teachers of Chile AG alleged that: (a) the Government had not implemented the recommendations of the tripartite committee relating to the previous representation, as it had not determined the time to be allocated for teacher appraisals in consultation with the College of Teachers of Chile AG, and Act No. 20903 of 2016 (Teaching Careers Act) did not indicate the number of non-teaching hours to be allocated to teachers for appraisals, or where they are to be undertaken; and (b) the hours spent on appraisals constitute additional, unpaid and mandatory work, which is therefore damaging to the occupational health of teachers. It also noted the Government's indication that: (1) with respect to the alleged lack of consultations, the College of Teachers of Chile AG participated directly in the formulation of the teacher appraisal process established by the Teaching Careers Act; (2) with respect to the time required to carry out appraisals, the Office of the Comptroller General of the Republic had determined in repeated opinions that this type of appraisal was a non-teaching activity, and must be carried out within working hours and that work performed outside of working hours shall be paid as overtime; and (3) as appraisals are a mandatory process for teaching professionals in educational establishments that are dependent on municipal authorities, the parties are required to agree on, in the employment contracts as non-teaching curricula, the hours to be spent on this appraisal process. The Government indicated that it was in the process of developing regulations to determine more specifically the work and activities that may be included in the definition of non-teaching curricular hours, in accordance with section 6 of the Teachers' Statute, as amended by the Teaching Careers Act. The Committee requested information on the

consultations held on the development of the teaching appraisal process established by the Teaching Careers Act, and on the progress made in the formulation of regulations to determine non-teaching curricular hours.

The Committee notes that in June 2018, the Governing Body postponed once again the appointment of a committee charged with examining the new representation pending further examination by this Committee, and invited the Committee to examine the application of Convention No. 187 at its 2019 session (GB.333/INS/8/1, June 2018).

The Committee notes in this respect the Government's indication in its report that it has made a formal consultation with the Ministry of Education and the Social Security Undersecretariat with a view to getting background information regarding the representation made under article 24. The Government states that it will provide this information once received. ***The Committee requests the Government to provide this up-to-date information once available, particularly on the consultations held on the development of the teaching appraisal process established by the Teaching Careers Act, and on the progress made in the formulation of regulations to determine non-teaching curricular hours, in consultation with the most representative employers' and workers' organizations.***

In addition, the Committee recalls that it intends to examine, in the context of the regular reporting cycle, the following matters raised in its comments made in 2016, and hopes that the Government will provide full information in this regard.

*Article 2(3). Measures that could be taken to ratify relevant OSH Conventions of the ILO. **The Committee requests the Government to provide information on the consultations held in relation to the measures that could be taken for the ratification of the relevant ILO Conventions on OSH.***

*Article 3. Formulation of a national policy in consultation with the most representative organizations of employers and workers. **The Committee requests the Government to provide information on the consideration given to the specific problems of teachers within the framework of the national policy.***

*Article 5. National programme. **The Committee requests the Government to provide information on the formulation of the national programme and the consideration given to the specific features of teaching work in this regard.***

[The Government is asked to reply in full to the present comments in 2020.]