



Governing Body

340th Session, Geneva, October–November 2020

Institutional Section

INS

Date: 9 October 2020

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Nineteenth item on the agenda

Reports of the Officers of the Governing Body

First report: Representation alleging non-observance by Chile of the Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35), and the Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37)

1. By a communication dated 20 June 2019, the National Federation of Municipal Workers of Chile made a representation to the International Labour Office under article 24 of the ILO Constitution alleging non-observance by Chile of the Convention, 1933 (No. 35), and the Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37). A summary of the representation is contained in the appendix.
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.
3. Pursuant to article 2(1) of the Standing Orders, the Director-General brought the representation before the Officers of the Governing Body who, according to paragraph 3 of the same article, shall report to the Governing Body on the receivability of the representation. Article 2(2) lays down the conditions for the receivability of a representation. In the light of these conditions, the following observations can be made in the present case:
 - (a) the representation was communicated to the International Labour Office in writing;
 - (b) it emanates from an industrial association of workers;

- (c) it makes specific reference to article 24 of the ILO Constitution;
 - (d) it concerns a Member of the Organization;
 - (e) it refers to a Convention to which the Member against which it is made is a party;¹
 - (f) it indicates in what respect it is alleged that the Member against which the representation is made has failed to secure the effective observance within its jurisdiction of the said Convention.
4. Taking into account the above conditions, the Officers of the Governing Body consider that the representation is receivable in terms of article 2(2) of the Standing Orders. According to article 2(4) of the Standing Orders, the Governing Body, in reaching a decision on the receivability of the representation, on the basis of the report of its Officers, shall not enter into discussion of the substance of the representation. In accordance with article 3(1), if the Governing Body decides that the representation is admissible, it shall set up a tripartite committee to examine it, composed of members of the Governing Body chosen in equal numbers from the Government, Employers' and Workers' groups.

► Draft decision

5. **In the light of the information contained in document GB.340/INS/19/1, and taking into consideration the recommendation of its Officers, the Governing Body decided that the representation was receivable and to set up a tripartite committee to examine it.**

¹ Chile ratified Conventions Nos 35 and 37 in 1935.

► Appendix

Summary of the representation

1. In its communication of 20 June 2019, the National Federation of Municipal Workers of Chile (FENTRAMUCH) submitted a representation under article 24 of the ILO Constitution, alleging non-observance by Chile of the Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35), and the Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37).
2. FENTRAMUCH alleges that municipal workers do not receive the compensatory retirement allowance established under section 2 of Legislative Decree No. 3501 of 1980, applied over the total remuneration. Specifically, the above organization alleges that the sum of the allowance currently received by municipal workers governed by Administrative Statute Act No. 18883 of 1989 is computed by taking into account only the base salary, and excludes the calculation of other allocations that make up the total taxable remuneration.
3. FENTRAMUCH considers that this way of computing leads to a reduction both in the amount of old-age and invalidity insurance contributions and in pensions, which, in its opinion, constitutes a violation of the following provisions of Conventions Nos 35 and 37: (i) paragraphs 1 (determination of the sum of the pension) and 3 (remuneration taken into account for contributions and pension) of Article 7 of Conventions Nos 35 and 37; (ii) paragraphs 1 (financial resources of the insurance scheme for insured persons and their employers) and 4 (contribution of the public authorities to the financial resources or to the benefits of insurance schemes) of Articles 9 and 10 of Conventions Nos 35 and 37 respectively; and (iii) paragraph 5 (administrative and financial supervision of self-governing insurance institutions by the public authorities) of Articles 10 and 11 of Conventions Nos 35 and 37 respectively.