

Governing Body

342nd Session, Geneva, June 2021

Institutional Section

INS

Date: 1 June 2021

Original: English

Ninth item on the agenda

Reports of the Officers of the Governing Body

Fourth report: Representation alleging non-observance by Colombia of the Maternity Protection Convention, 1919 (No. 3), the Workmen's Compensation (Agriculture) Convention, 1921 (No. 12), the Workmen's Compensation (Accidents) Convention, 1925 (No. 17), the Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18), the Sickness Insurance (Industry) Convention, 1927 (No. 24), the Sickness Insurance (Agriculture) Convention, 1927 (No. 25), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)

1. By a communication dated 13 April 2021, the Single Confederation of Workers of Colombia (CUT), the General Confederation of Labour (CGT) and the Confederation of Workers of Colombia (CTC) made a representation to the International Labour Office under article 24 of the ILO Constitution alleging non-observance by Colombia of the Maternity Protection Convention, 1919 (No. 3), the Workmen's Compensation (Agriculture) Convention, 1921 (No. 12), the Workmen's Compensation (Accidents) Convention, 1925 (No. 17), the Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18), the Sickness Insurance (Industry) Convention, 1927 (No. 24), the Sickness Insurance (Agriculture) Convention, 1927 (No. 25), and the Tripartite

Consultation (International Labour Standards) Convention, 1976 (No. 144). 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 Colombia 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 Conventions to which the Member against which the representation is made is a party;¹
 - (f) It indicates in what respect it is alleged that the Member against which it is made has failed to secure the effective observance within its jurisdiction of the said Conventions.
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.342/INS/9/4, 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 Colombia ratified Conventions Nos 3, 12, 17, 18, 24 and 25 in 1933 and Convention No. 144 in 1999.

► Appendix

Summary of the representation

1. In its communication dated 13 April 2021, the Single Confederation of Workers of Colombia (CUT), the General Confederation of Labour (CGT) and the Confederation of Workers of Colombia (CTC) allege that Colombia has failed to observe its obligations under the Maternity Protection Convention, 1919 (No. 3), the Workmen's Compensation (Agriculture) Convention, 1921 (No. 12), the Workmen's Compensation (Accidents) Convention, 1925 (No. 17), the Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18), the Sickness Insurance (Industry) Convention, 1927 (No. 24), the Sickness Insurance (Agriculture) Convention, 1927 (No. 25) and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).
2. The complainant organizations allege that Decree No. 1174, adopted in August 2020 pursuant to Article 193 of the National Development Plan 2018–2022, and which entered into force in February 2021, reformed aspects of the social security system and resulted in the creation of a parallel system for workers who earn less than the legal monthly minimum wage. More specifically, it is alleged that the Decree led to the implementation of employment modalities that impact negatively on these workers' income and impedes their access to social protection. These changes, according to the complainants, contravene to the Government's obligations under the above-mentioned social security Conventions, ratified by Colombia. Notably, they allege a failure by the Government of its obligation to protect the right to social security of workers who earn less than the legal monthly minimum wage (including their right to cash benefits in case of sickness, maternity and occupational injury, and the right to a pension in case of disability, old age and death) and, as a consequence, failure by the Government to comply with its international commitments.
3. The complainant organizations further allege that the adoption of Decree No. 1174 was marked by a lack of consultations with trade union organizations and that the observations they communicated to the Government were not taken into account in the process.
4. Lastly, the complainants indicate that they have taken legal action before the Council of State and the Constitutional Court, and requested that Decree No. 1174 be declared null and suspended provisionally, and that Article 193 of the National Development Plan be declared unconstitutional.