



Governing Body

346th Session, Geneva, October–November 2022

Institutional Section

INS

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Eighteenth item on the agenda

Reports of the Officers of the Governing Body

Eighth report: Representation alleging non-observance by Argentina of the Indigenous and Tribal Peoples Convention, 1989 (No. 169)

1. By a communication received on 27 September 2022, the Confederation of Workers of Argentina (CTA Autonomous), the Association of State Workers (ATE), the Association of State Workers of the Province of Córdoba and the Press Trade Union Centre (CISPREN) of the Province of Córdoba made a representation to the International Labour Office under article 24 of the ILO Constitution alleging non-observance by Argentina of the Indigenous and Tribal Peoples Convention, 1989 (No. 169). 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 Argentina 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 industrial associations 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 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 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.346/INS/18/8, 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 Argentina ratified Convention No. 169 in 2000.

► Appendix

Summary of the representation

In its communication dated 16 September 2022, the Confederation of Workers of Argentina (CTA Autonomous), the Association of State Workers (ATE), the Association of State Workers of the Province of Córdoba and the Press Trade Union Centre (CISPREN) of the Province of Córdoba allege that Argentina has not fulfilled the obligations established in Articles 6, 7 and 15 of the Indigenous and Tribal Peoples Convention, 1989 (No. 169). The complainant organizations claim that the Environment Secretariat of the Province of Córdoba approved the project for the construction of the motorway named “Alternative to Route 38 Costa Azul La Cumbre section” (also known as the Punilla motorway) in Santa María Punilla, Province of Córdoba, in an area that includes the territory occupied since time immemorial by the Ticas, Sonko Kuntur, Siquiman and Arabela indigenous communities, with no prior consultation of the communities concerned and no environmental impact assessment with full public information and participation carried out. They allege that the construction of this project will have an irreversible impact on the life and environment of those communities.

The complainant organizations indicate that in May 2017 they lodged an action for environmental protection before the judicial authorities alleging irregularities in the granting of the environmental licence by the Environment and Climate Change Secretariat of the Province of Córdoba for the “Costa Azul bridge over San Roque lake Variant” project, which constituted the first section of the current Punilla motorway project. That action for environmental protection was rejected in April 2019 by the Administrative Disputes Chamber of Cruz del Eje on the grounds that, according to that judicial authority, it was a premature application and there was no certainty regarding the environmental damage claimed. An appeal was lodged against this judicial decision which is pending resolution. Subsequently, in July 2021, the Environment Secretariat of the Province of Córdoba approved an environmental impact assessment for the construction of the Punilla motorway, which, according to the complainant organizations, does not comply with the provisions of environmental legislation. In April 2022, following an announcement by the Governor of the Province of Córdoba that work would be starting on the motorway, workers were moved into the Río Yuspe reserve to begin construction activities. The complainant organizations allege that these activities have already begun to have an impact on the archaeological and cultural heritage of the indigenous communities and on the native forest.

The complainant organizations also allege that, since May 2022, evictions and acts of violence have been carried out by the police against members of indigenous communities and environmental activists who have demonstrated against the construction of the motorway.