

**Tripartite Meeting on the Freedom of Association and
Protection of the Right to Organise Convention, 1948
(No. 87), in relation to the right to strike and the
modalities and practices of strike action at
national level**

Geneva
23–25 February 2015

Background document

Corrigendum

Part II. Modalities and practices of strike action at the national level

Paragraph 61 now reads:

*“Constitutional framework – At least **97** ILO member States have an explicit protection of strike action in their national Constitutions, leaving it to the legislator to regulate its exercise in practice.”*

The following countries have been added to footnote 2: **El Salvador** and **Zimbabwe**.

The first sentence of paragraph 87 now reads:

*“In contrast, in other countries sympathy strikes that have the objective of putting pressure on a secondary employer are almost always considered unlawful (e.g. **Canada, Lithuania, Romania, Switzerland** and **United Kingdom**).*

In paragraph 100, the following countries have been added to footnote 53: **El Salvador** and **Zimbabwe**.

At the end of paragraph 119, the following sentence has been deleted:

*“In **Bulgaria**, the authorities have established a National Institute for Conciliation and Arbitration in compensation for the denial of the right to strike in the energy, communications and health sectors.”*

Appendix I

The following text has been added before the table:

"It is possible, especially in the case of legislation not subject to review by the regular supervisory machinery, that some references may be out of date or incomplete. In this case, governments are encouraged to provide the latest information to libsynd@ilo.org."

The information concerning the following countries has been updated: Brazil, Bulgaria, Canada, Ecuador, El Salvador, Finland, Germany, Japan, South Sudan and Zimbabwe. The table below shows only the changes introduced per country: additions are underlined and deletions are struck out.

Country	Constitutional provisions referring to strike action	Legislative measures on strike action
22. Brazil		Decreto-ley núm. 1632 por el que se prohíbe la huelga en los servicios públicos y en las actividades esenciales para los intereses de la seguridad nacional de 1978.
24. Bulgaria		<u>State Gazette No. 87/27.10.2006 amending the Settlement of Collective Labour Disputes Act.</u>
29. Canada	<i>In a judgment dated 30 January 2015, the Supreme Court of Canada found that the right to strike is protected under section 2(d) of the Charter of Rights and Freedoms by virtue of its unique role in the collective bargaining process.</i> Section 2 of the Charter of Rights and Freedoms <u>Everyone has the following fundamental freedoms:</u> ... <u>(d) freedom of association.</u>	
49. Ecuador		Código Penal Capítulo VIII – De los delitos contra la libertad de trabajo, asociación y petición (Artículos 209-212) <u>Artículo 241 – Impedimento o limitación del derecho a huelga</u> <u>Artículo 346 – Paralización de un servicio público</u>
51. El Salvador	Constitución Artículo 48 <u>Se reconoce el derecho de los patronos al paro y el de los trabajadores a la huelga, salvo en los servicios públicos esenciales determinados por la ley. Para el ejercicio de estos derechos no será necesaria la calificación previa, después de haberse procurado la solución del conflicto que los genera mediante las etapas de solución pacífica establecidas por la ley. Los efectos de la huelga o el paro se retrotraerán al momento en que éstos se inicien.</u> <u>La ley regulará estos derechos en cuanto a sus condiciones y ejercicio.</u>	
57. Finland	<u>The constitutional guarantee of the right to strike has been established by the courts on the basis of section 13(2) of the Constitution.</u> Constitution Section 13(2) – Freedom of assembly and freedom of association <u>Everyone has the freedom of association. Freedom of association entails the right to form an association without a permit, to be a member or not to be a member of an association and to participate in the activities of an association. The freedom to form trade unions and to organize in order to look after other interests is likewise guaranteed.</u>	

Country	Constitutional provisions referring to strike action	Legislative measures on strike action
62. Germany	<u>The constitutional guarantee of the right to strike has been established by the courts on the basis of article 9(3) of the Basic Law (Grundgesetz).</u> Basic Law Article 9(3) <u>The right to form associations to safeguard and improve working and economic conditions shall be guaranteed to every individual and to every occupation or profession. Agreements that restrict or seek to impair this right shall be null and void; measures directed to this end shall be unlawful. Measures taken pursuant to article 12a, to paragraphs (2) and (3) of article 35, to paragraph (4) of article 87a, or to article 91 may not be directed against industrial disputes engaged in by associations within the meaning of the first sentence of this paragraph in order to safeguard and improve working and economic conditions.</u>	
82. Japan	<u>According to the courts, dispute acts, including strikes, are protected by article 28 of the Constitution.</u> Constitution Article 28 <u>The right of workers to organize and to bargain and act collectively is guaranteed.</u>	
153. South Sudan		2012 Labour Bill, which addresses the right to strike, in the process of adoption. Article 3 — Exemptions Article 110 — Compulsory arbitration Article 118 — Binding effect of arbitration Article 122 — Prohibitions on work stoppage
185. Zimbabwe	Constitution Article 65(3) <u>Except for members of the security services, every employee has the right to participate in collective job action, including the right to strike, sit in, withdraw their labour and to take other similar concerted action, but a law may restrict the exercise of this right in order to maintain essential services.</u>	