

SDG 8.8.2  
Labour Rights Indicator

“Level of national compliance with labour rights (freedom of association and collective bargaining) based on International Labour Organization (ILO) textual sources and national legislation, by sex and migrant status”

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12 October 2018

## Background

- **SDG Indicators** – Global indicator framework for the Sustainable Development Goals and targets of the 2030 Agenda for Sustainable Development
- **Inter-Agency Expert Group on SDGs (IAEG-SDGs)**; 232 indicators; 3 tiers
- **SDG 8.8:** Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment
- **SDG 8.8.2:** “Level of national compliance with labour rights (freedom of association and collective bargaining) based on International Labour Organization (ILO) textual sources and national legislation, by sex and migrant status”

# Background

- **Current tier classification:** Tier III indicator
  - Tier I: internationally agreed methodology and regularly produced data widely available
  - Tier II: internationally agreed methodology, but no regularly produced data
  - Tier III: no internationally agreed methodology, but methodology is being or will be developed or tested
- **Internal ILO consultation on proposed method**
  - 3 rounds of bipartite discussion in 2017
  - 1 round of tripartite discussion in 2018

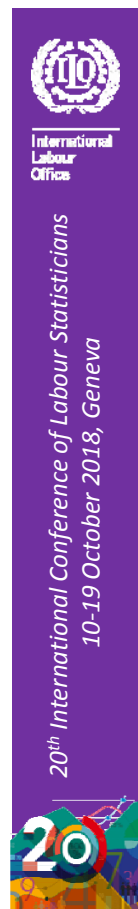
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## Freedom of association and collective bargaining (FACB)

- Fundamental rights recognized in the ILO Constitution (also in human right treaties – e.g. ICCPR, ICESCR)
- Freedom of Association C.87 (1948) and Collective Bargaining C.98 (1949) (fundamental conventions – complemented by other Conventions and Recommendations)
- Committee on Freedom of Association – since 1951 examines complaints regardless of ratification
- Enabling fundamental principle and right at work in the context of globalization (1998 FPRW Declaration, 2008 Social Justice Declaration)

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# ILO Supervisory System

- **Regular supervision**
  - Reports on ratified Conventions (art. 22 ILO Constitution)
  - With inputs from national and international workers' and employers' organizations (art. 23)
    - CEACR (independent experts)
    - CAS (tripartite)
- **Special mechanisms**
  - Committee on Freedom of Association (tripartite)
  - Article 24 Representations: ad hoc Governing Body committees (tripartite)
  - Article 26 Complaints - Commission of Inquiry (independent experts)

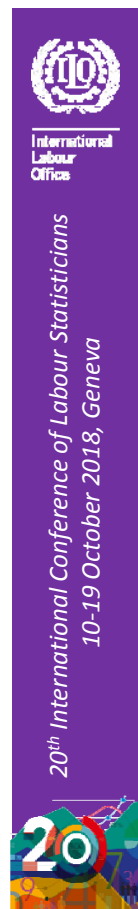
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## Textual sources derived from ILO supervisory mechanisms

- Reports of the Committee of Experts on the Application of Conventions and Recommendations (a)
- Reports of the Conference Committee on the Application of Standards (b)
- Reports of the Committee on Freedom of Association (f)
- Representations under Article 24 of the ILO Constitution (d)
- Complaints under Article 26 of the ILO Constitution (e)
- Country baselines under the 1998 Declaration Annual Review (art. 19 of the ILO Constitution) (c)

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# Background

- Evolved from ILO's earlier country-level indicators of FACB rights (Kucera, 2002, 2007)
- Assessments from two independent surveys of literature:

"From this overview, we conclude that so far the Kucera dataset on FACB rights is the best option if one wants to measure the policy involvement of trade unions. The main reasons are its extensive country coverage, its focus on FACB rights and more in particular on de facto FACB rights, and the high transparency in methodology." – *Social Indicators Research*, 2009

"Kucera's methodology stands as the leading effort to measure compliance with freedom of association and collective bargaining rights...in light of social scientists' use of the methodology." – Study commissioned by U.S. Dept. of Labor, 2010

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10-19 October 2018, Geneva



# Background

- **Addressing limitations of ILO's earlier method:**
  - Expanding textual sources (including national legislation)
  - Distinct evaluation criteria for non-compliance *in law* and *in practice*
  - Elimination of catch-all criteria
  - More comprehensive definitions based strictly on ILO language and principles of application
  - Use of Delphi method for the construction of weights
  - Collaboration between ILO economist and labour lawyer
  - Coding done by labour lawyers with ILO experience

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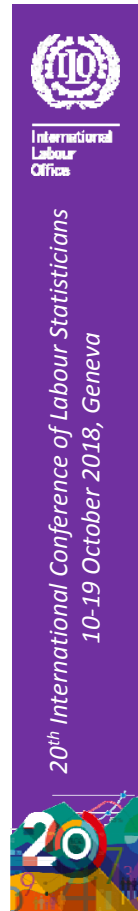
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# Amendments

- **Proposed changes for SDGs:**
  - Coding violations against both workers and employers and their organizations
  - Chapeau text to be prominently presented on the reporting
  - Highlighting differences between ratifying and non-ratifying countries:
    - Adding 2 columns for ratification of ILO Conventions No. 87 and 98
    - Adding explanatory text for different reporting obligations
  - Evaluation criteria:
    - Additional evaluation criterion for Art. 26 cases
    - Elimination of separate evaluation criteria for exclusion of workers/employers in EPZs
    - Coding of violations related to the prohibition of employers' access to their premises during industrial action (Table 2, p. 11, EC 48 and 55)

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# Amendments

- Chapeau text:
  - SDG indicator 8.8.2 seeks to measure the level of national compliance with fundamental labour rights (freedom of association and collective bargaining). It is based on six International Labour Organization (ILO) supervisory body textual sources and also on national legislation. National law is not enacted for the purpose of generating a statistical indicator of compliance with fundamental rights, nor were any of the ILO textual sources created for this purpose. Indicator 8.8.2 is compiled from these sources and its use does not constitute a waiver of the respective ILO Constituents' divergent points of view on the sources' conclusions.

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# Amendments

- [Explanation](#) regarding difference between ratifying and non-ratifying countries:
  - SDG indicator 8.8.2 is not intended as a tool to compare compliance among ILO member States. It should specifically be noted that reporting obligations of an ILO member State to the ILO's supervisory system and thus ILO textual sources are different for ratifying and non-ratifying ILO member States.

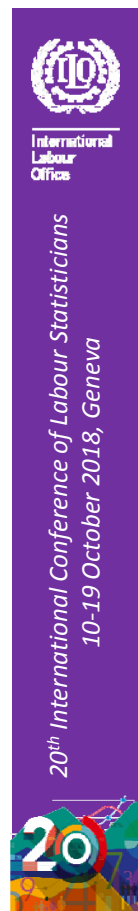
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# Amendments

- Contradiction among textual sources:
  - If contradictory evidence is found within the same source or if an explicitly stated contradictory assessment is found among different sources – based solely on the comments, conclusions and recommendations of the ILO supervisory system – the information will be excluded from the coding.
- Coding of national legislation: close collaboration with Office and only for non-ratifying countries
- Countries with insufficient information: two-step process
  - Step 1: comparison with externally produced indicator
  - Step 2: consultation with Office and social partners
- Establishment of tripartite committee to consider further improvements to the method to be implemented in 2020 if needed

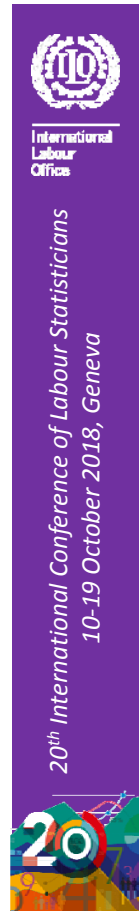
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# Elements of the method

1. Key premises
2. Evaluation criteria
3. Coding sources
4. Coding rules
5. Converting coding to country scores

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## Key premises

- Definitional validity
  - The definitions accurately reflect underlying ILO Conventions and principles of application
- Reproducibility/Inter-coder reliability
  - Different coders are able to consistently arrive at the same results
- Transparency
  - Coded non-compliance can be readily traced back to individual ILO textual sources

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# Key premises

- The coding is done with reference to individual ILO textual sources, with letters “a” to “g” indicating each of the different textual sources

	IIb. Right of workers to establish and join organizations in practice	2012	2015
35	General prohibition of the development of independent workers' organizations		
36	Exclusion of workers from the right to establish and join organizations	a	
37	Previous authorization requirements	abf	abf
38	Restrictions on the freedom of choice of trade union structure and composition		
39	Imposed trade union unity		
40	Dissolution/suspension of legally functioning organizations	ab	

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# Evaluation criteria

## Evaluation criteria (≠ indicators)

- 180 evaluation criteria
  - 103 for workers and their organizations
  - 77 for employers and their organizations
- Evaluation criteria are split
  - In law and In practice
- Greater emphasis on:
  - Violations committed against officials of workers' and employers' organizations
  - Violations relating to due process
- Additional information by sex and migrant status

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# Textual sources

- a. Reports of the Committee of Experts on the Application of Conventions and Recommendations
- b. Reports of the Conference Committee on the Application of Standards
- c. Country baselines under the Declaration Annual Review
- d. Representations under Article 24 of the ILO Constitution
- e. Complaints under Article 26 of the ILO Constitution
- f. Reports of the Committee on Freedom of Association
- g. National legislation

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# Coding rules

- General coding rules
  - Rules applicable to the coding of all textual sources
- Source-specific coding rules
  - Rules applicable to the coding of the specific textual source
- Definitions constructed for each evaluation criterion

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## Codable and non-codable evidence

1. Only information *recorded explicitly* by the selected sources is coded
2. Only non-compliance that is considered as such by ILO standards and principles of application is coded
3. Comments on draft legislation and comments requesting further information/clarification are not coded
4. Coding is based on the comments, recommendations and conclusions made by the ILO supervisory bodies

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## Converting coding to scores

- **Dummy variable:** “1”: observed non-compliance, “0” no observed non-compliance
- **Raw scores:** Equivalent to number of evaluation criteria for which non-compliance is observed (weighted and unweighted)
- **Weighting:** *Delphi method* – survey-based expert consultations
- **Normalization of scores:** Range from 0-10
- **General prohibitions:** Score of 10 assigned to countries with all-encompassing prohibition of FACB rights

	IIb. Right of workers to establish and join organizations in practice	2012	2015	2012	2015
35	General prohibition of the development of independent workers' organizations			0	0
36	Exclusion of workers from the right to establish and join organizations	a		1	0
37	Previous authorization requirements	abf	abf	1	1
38	Restrictions on the freedom of choice of trade union structure and composition			0	0
39	Imposed trade union unity			0	0
40	Dissolution/suspension of legally functioning organizations	ab		1	0

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# Delphi method

- Survey-based method of experts anonymous to each other
- International experts involved:
  - 37 experts invited, 18 agreed, 14 completed
  - 13 lawyers, 1 political scientist
  - 5 Western Europe, 1 Eastern Europe, 3 U.S., 2 Latin America, 2 Asia and 1 Africa
- Two rounds of responses based on the same question; rating 1-5 for severity of each evaluation criteria, with final ratings used to construct the weights
- Considerable convergence among rating of evaluation criteria with average value of 4.03
- Weights constructed with min-max values from 1 to 2

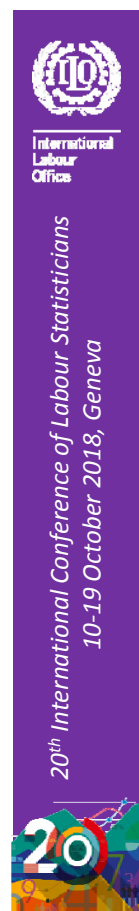
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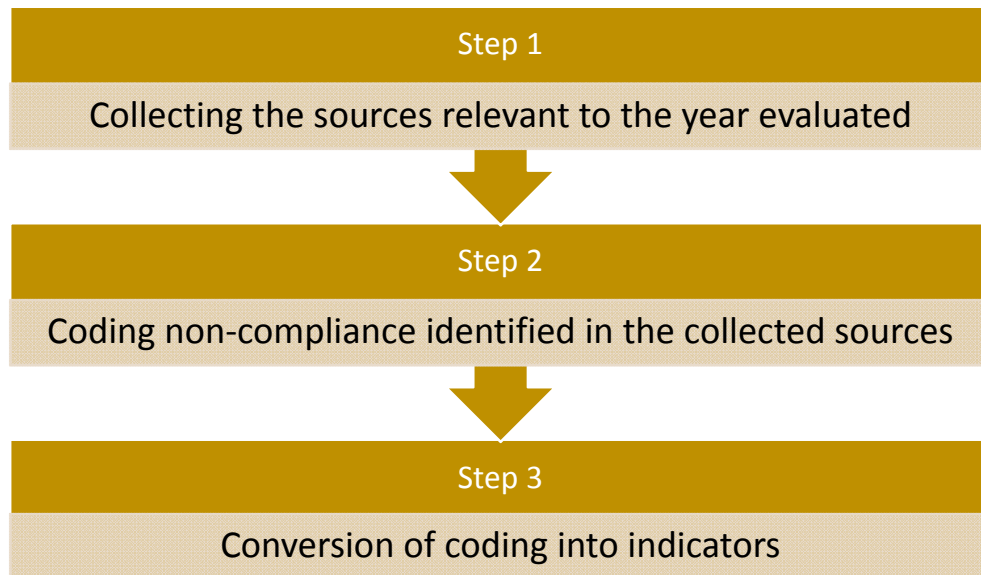
# Transparency and documentation

- Transparency:
  - The coding is done with reference to individual ILO textual sources, with letters "a" to "g" indicating each of the different textual sources
- Documentation
  - Systematic and accurate documentation
  - Based on strict and standardized rules
  - Allows for easy and reliable identification of the underlying coding through the use of letter-based and numerical identification
  - Coding and data is stored electronically providing the basis for the overall database

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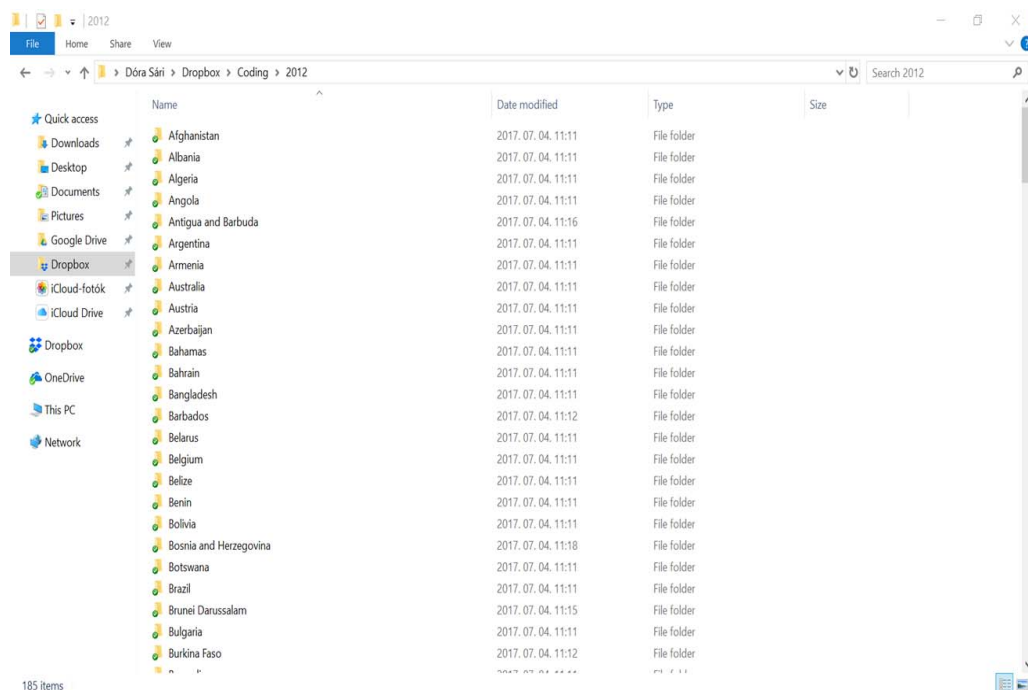


# Process of coding and conversion



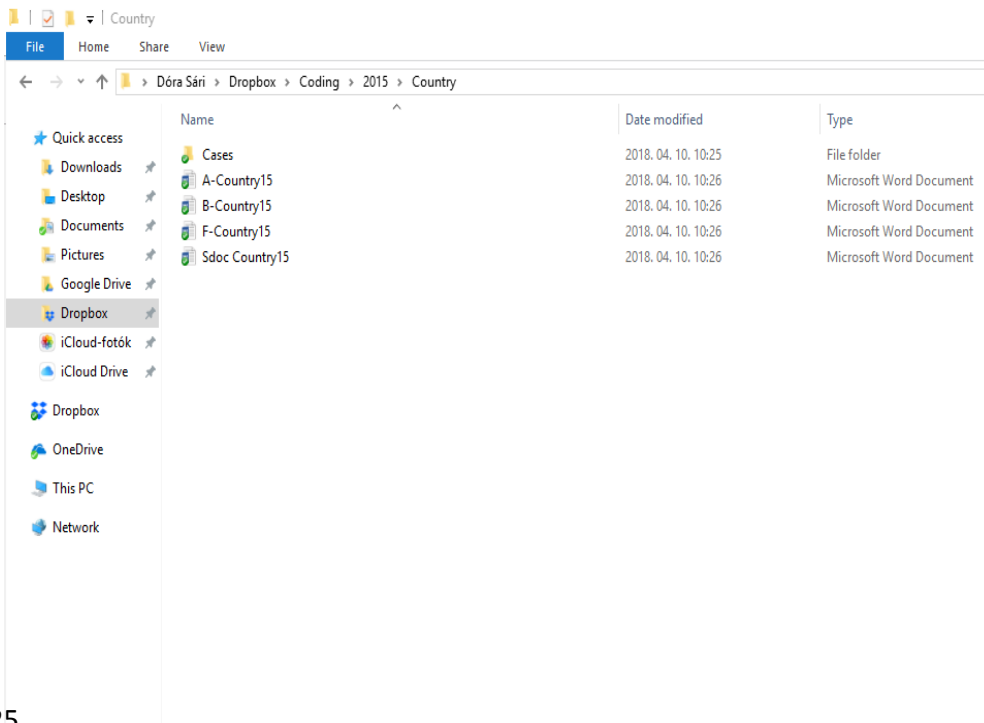
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## Step 1: Collecting the sources relevant to the year evaluated



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## Step 1: Collecting the sources relevant to the year evaluated



Country

File Home Share View

← → ↶ ↷ ↵

Country > Dóra Sári > Dropbox > Coding > 2015 > Country

Name	Date modified	Type
Cases	2018. 04. 10. 10:25	File folder
A-Country15	2018. 04. 10. 10:26	Microsoft Word Document
B-Country15	2018. 04. 10. 10:26	Microsoft Word Document
F-Country15	2018. 04. 10. 10:26	Microsoft Word Document
Sdoc Country15	2018. 04. 10. 10:26	Microsoft Word Document

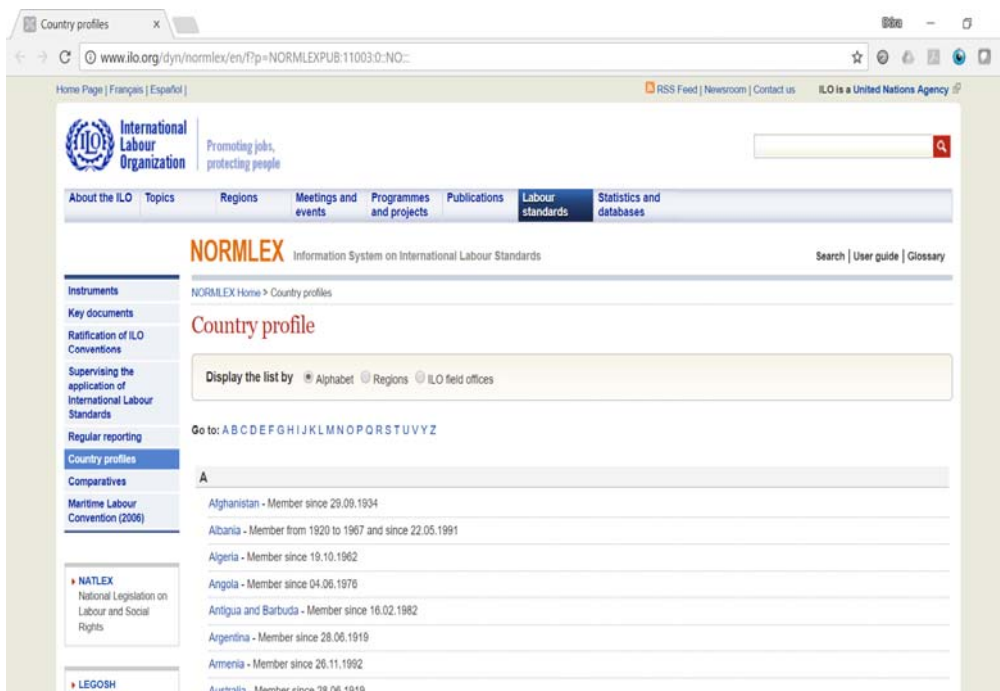
Quick access

- Downloads
- Desktop
- Documents
- Pictures
- Google Drive
- Dropbox
- iCloud-fotók
- iCloud Drive
- Dropbox
- OneDrive
- This PC
- Network

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## Step 1: Collecting the sources relevant to the year evaluated



Country profiles

www.ilo.org/dyn/normlex/en/?p=NORMLEXPUB:11003:0:NO...

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NORMLEX Home > Country profiles

Country profile

Display the list by: Alphabet Regions ILO field offices

Go to: A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

A

- Afghanistan - Member since 29.09.1934
- Albania - Member from 1920 to 1967 and since 22.05.1991
- Algeria - Member since 19.10.1962
- Angola - Member since 04.06.1976
- Antigua and Barbuda - Member since 16.02.1982
- Argentina - Member since 28.06.1919
- Armenia - Member since 26.11.1992
- Australia - Member since 28.06.1919

Instruments

Key documents

Ratification of ILO Conventions

Supervising the application of International Labour Standards

Regular reporting

Country profiles

Comparatives

Maritime Labour Convention (2006)

NATLEX

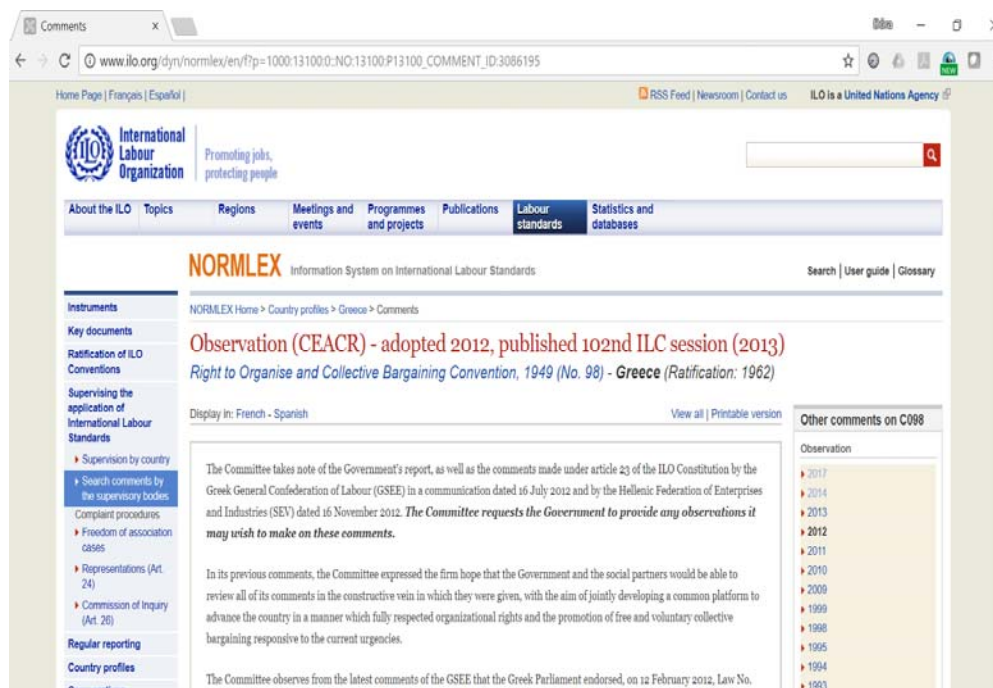
National Legislation on Labour and Social Rights

LEGOSH

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## Step 1: Collecting the sources relevant to the year evaluated



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## Step 2: Coding non-compliance in the selected sources

### Formatting

- Font: Times New Roman, 12
- Paragraph: justified
- Spacing: paragraph – Auto; line- single

### HTM codes

- Title: <h3>, </h3>
- Para: <p>, </p>
- Para breaks: <br>
- Quotation marks: ””

### Colour coding:

- **[Violation]** – grey -25%
- **[Progress]** - turquoise
- **[Contradiction]** - pink
- **[Retroactive coding]** – red

### Coding

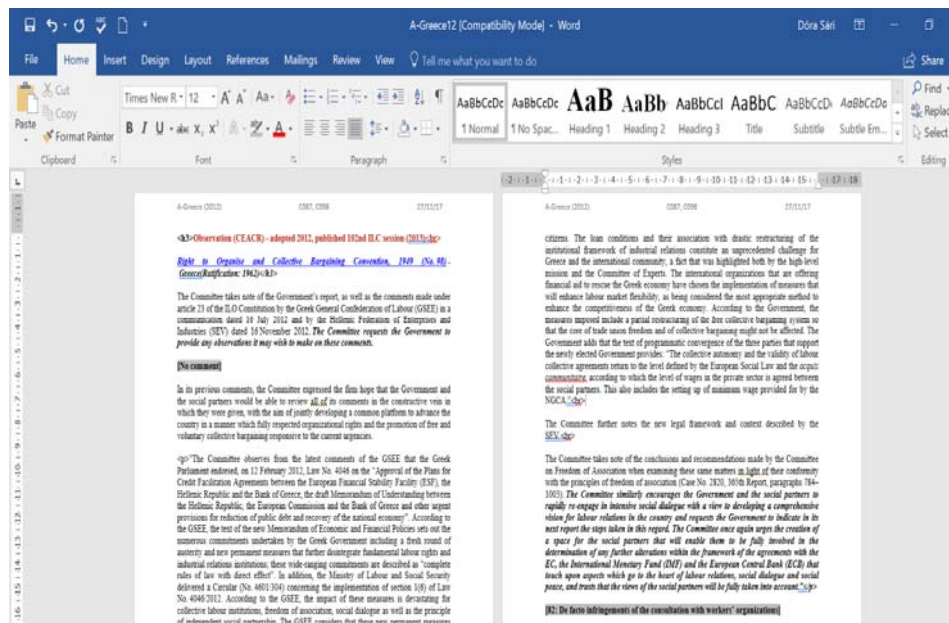
- **[number: In law/In practice violation name]**
- **[26: In law previous authorization requirements]**
- **[No comment]**
- **[Comment relates to draft legislation]**
- **[Comment relates to state level legislation]**
- **[No codable comment was made]**
- **[No comment on the substance has yet been made]**
- **[Contradiction]**
- **[109: Legal reform]**
- **[110: Promotional activities]**

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## Step 2: Coding non-compliance in the selected sources



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## Step 2: Coding non-compliance in the selected sources

<p>"The Committee takes note of the Government's report. It further notes the comments by the in a communication dated 16 July 2012 and by the International Trade Union Confederation (ITUC) dated 31 August 2012. The latter comments also concern the arrest and charge of a trade union leader and trade unionists for conducting a sit-in protesting the cut-off of electricity to those not able to pay the corresponding tax increases. *The Committee requests the Government to provide its observations thereon.*"</p>

[No comment]

<p>"Articles 1 and 3 of the Convention. Protection against anti-union dismissal. More generally, the has referred to the continuing introduction of measures introducing flexible forms of work which render workers more vulnerable to abusive practices and unfair dismissal (e.g. flexibility in the management prerogative to breach full-time work contracts and unilateral imposition of reduced-term rotation work, extended duration of permissible use of temporary agency work, increased probationary period and extension of the maximum period for fixed-term contracts). *The Committee once again requests the Government to provide its observations on the comments made by the in this regard and to provide all relevant information, including comparative statistics relating to complaints of anti-union discrimination and any remedial action taken, with its next report.*"</p>

[No comment]

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## Step 2: Coding non-compliance in the selected sources

<p>“(…) While acutely aware of the grave and exceptional circumstances being experienced in the country, the Committee **deeply regrets** these numerous interventions in voluntary concluded agreements, including the for which the social partners, cognizant of the financial and economic challenges, declared their continuing support in February 2012. The Committee recalls, as has been said to other countries in similar situations, that if, as part of its stabilization policy, a government considers that wage rates cannot be settled freely through collective bargaining, such a restriction should be imposed as an exceptional measure and only to the extent that it is necessary, without exceeding a reasonable period, and it should be accompanied by adequate safeguards to protect workers’ living standards. **While noting the gravity of the economic crisis the Committee refers to its conclusion above about the importance of a space for social dialogue and the role of the social partners in participating in the determination of measures affecting them and the labour market and urges the Government to review with them all the above measures with a view to limiting their impact and their duration and ensuring adequate safeguards to protect workers’ living standards. Noting the Government’s indication that consultations are taking place between the newly elected Government and the social partners with the aim of signing the new , the Committee requests the Government to indicate in its next report the progress made in this regard and trusts that any mechanism for the determination of wages will ensure that the social partners can play an active role.**”</p>

[70: De jure violations of collective agreements]

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## Step 2: Coding non-compliance in the selected sources

### Case

Report No 365, November 2012

[No codable comment was made]

<p>”**The Committee’s recommendations**<br>

**261.** In the light of its foregoing conclusions, the Committee invites the Governing Body to approve the following recommendations:<br>

(a) The Committee requests the Government to communicate the outcome of the judicial inquiries relating to the violent acts committed on 28 July 2011 in which four workers died, the trade unionist was injured, and following which was detained, as well as to the firearms attack on the home of trade union official on 20 August 2011.”</p>

[No comment]

(b) The Committee requests the Government to inform it whether a judicial inquiry has been opened into the alleged burning of a vehicle belonging to trade union official (at his home) on 11 October 2011 in the early hours of the morning and, if so, to report on the outcome.”</p>

[No comment]

(c) The Committee draws the Governing Body’s attention to the serious and urgent nature of this case.”</p>

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## Step 2: Coding non-compliance in the selected sources

### <h3>Case <br>

Report No 362, November 2011<br>

Allegations: “The complainant organization alleges that, although it has trade union status, several enterprises in the railway sector refuse to engage in collective bargaining and that the administrative authority has not advanced the bargaining process, despite the proceedings that have been instituted; the complainant organization also alleges acts of harassment and persecution of its members”</h3>

#### [80: De facto acts of interference in collective bargaining]

<p>”308. In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:<br>

(a) The Committee requests the Government to promptly take all the measures possible to encourage and promote the full development and utilization of machinery for voluntary negotiation between the and the enterprises concerned in the sector, with a view to the regulation of terms and conditions of employment by means of collective agreements. The Committee requests the Government to keep it informed in this regard.”</p>

#### [43: De facto anti-union discriminatory measures]

<p>”308. In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:<br>

(...)<br>

(c) The Committee requests the Government to confirm that trade union delegate , who had been dismissed from the in violation of trade union immunity, has been reinstated without loss of pay in accordance with the order issued by the judicial authority.”</p>

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## Step 3: Conversion of coding into indicators

LRI uploading - Google X

Secure https://docs.google.com/spreadsheets/d/1eHycV2pl-W5KXb-CVWIAZX5683vzdl3UR7ShYgKl0/edit#gid=0

LRI uploading

File Edit View Insert Format Data Tools Add-ons Help All changes saved in Drive

100% - 10 - Arial - 10 - B I U A

	B	C	D	E	F	G
1	country	year	criteria	letter	source	
2	UN country code	2012	63 a		<h3>Observation (CEACR) - adopted 2012, published 102nd ILC session (2013) Right to Organise and Collective Bargaining Convention, 1949 (No. 98) <h3>	
3	UN country code	2012	63 b		<h3>Observation (ILOCR) - adopted 2013, published 102nd ILC session (2013) Right to Organise and Collective Bargaining Convention, 1949 (No. 98) <h3>	
4	UN country code	2012	63 f		<h3>Case 2820 Report No 365, November 2012 Allegations: The complainants allege that numerous violations of trade union and collective bargaining rights have been imposed within the f	
5	UN country code	2012	66 a		<h3>Observation (CEACR) - adopted 2012, published 102nd ILC session (2013) Right to Organise and Collective Bargaining Convention, 1949 (No. 98) <h3>	
6	UN country code	2012	68 a		<h3>Observation (CEACR) - adopted 2012, published 102nd ILC session (2013) Right to Organise and Collective Bargaining Convention, 1949 (No. 98) <h3>	
7	UN country code	2012	68 b		<h3>Observation (ILOCR) - adopted 2013, published 102nd ILC session (2013) Right to Organise and Collective Bargaining Convention, 1949 (No. 98) <h3>	
8	UN country code	2012	68 f		<h3>Case 2820 Report No 365, November 2012 Allegations: The complainants allege that numerous violations of trade union and collective bargaining rights have been imposed within the f	
9	UN country code	2012	69 a		<h3>Observation (CEACR) - adopted 2012, published 102nd ILC session (2013) Right to Organise and Collective Bargaining Convention, 1949 (No. 98) <h3>	
10	UN country code	2012	69 b		<h3>Observation (ILOCR) - adopted 2013, published 102nd ILC session (2013) Right to Organise and Collective Bargaining Convention, 1949 (No. 98) <h3>	
11					<h3>Case 2820 Report No 365, November 2012 Allegations: The complainants allege that numerous violations of trade union and collective bargaining rights have been imposed within the f	

violations

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## Step 3: Conversion of coding into indicators

Table 4: Hypothetical Example of Coding and Indicator Construction (for a Single Country and Year)

Evaluation Criteria		Textual coding	Binary coding	Weights	Binary coding x Weights
<b>Ia. Fundamental civil liberties in law</b>					
2	Infringements of trade unionists' basic freedoms	i	1	1.93	1.93
<b>Ib. Fundamental civil liberties in practice</b>					
6	Killing or disappearance of trade unionists in relation to their trade union activities	fhi	1	2.00	2.00
9	Other violent actions against trade unionists in relation to their trade union activities	fhi	1	1.82	1.82
12	Arrest, detention, imprisonment, charging and fining of trade unionists in relation to their trade union activities	hi	1	1.95	1.95
<b>Ila. Right of workers to establish and join organizations in law</b>					
25	Exclusion of other workers from the right to establish and join organizations	ahi	1	1.86	1.86
31	Lack of adequate legal guarantees against anti-union discriminatory measures	a	1	1.75	1.75
34	Infringements of the right to establish and join federations/confederations/international organizations	abhi	1	1.73	1.73
<b>Ilb. Right of workers to establish and join organizations in practice</b>					
39	Previous authorization requirements	fhi	1	1.70	1.70
44	Committed against trade union officials re violation no. 43	hi	1	1.89	1.89
45	Lack of guarantee of due process and/or justice re violation no. 43	hi	1	1.80	1.80
<b>IIla. Other union activities in law</b>					
51	Infringements of the right to freely elect representatives	ah	1	1.80	1.80
52	Infringements of the right to freely organize and control financial administration	ahi	1	1.59	1.59
54	Prohibition of all political activities	ahi	1	1.73	1.73
<b>IIlb. Other union activities in practice</b>					
58	Infringements of the right to freely organize and control financial administration	fhi	1	1.71	1.71
61	Lack of guarantee of due process and/or justice re violations nos. 56-60	f	1	1.79	1.79
<b>Iva. Right to collective bargaining in law</b>					
69	Acts of interference in collective bargaining	a	1	1.66	1.66
76	Exclusion of other workers from the right to collective bargaining	abhi	1	1.84	1.84
80	Acts of interference in collective bargaining	hi	1	1.64	1.64
<b>Va. Right to strike in law</b>					
87	Exclusion/restriction based on the objective and/or type of the strike	af	1	1.46	1.46
88	Provisions in law allowing for the suspension and/or declaration of illegality of strikes by administrative authority	ahi	1	1.59	1.59
94	Imposing excessive sanctions in case of legitimate strikes	afhi	1	1.82	1.82
<b>Vb. Right to strike in practice</b>					
105	Acts of interference during the course of strike action	hi	1	1.64	1.64
107	Committed against trade union officials re violation no. 106	h	1	1.80	1.80
108	Lack of guarantee of due process and/or justice re violations nos. 96-107	h	1	1.77	1.77
<b>Sum (non-normalized score)</b>			24		42.29
<b>Normalized score (0 = best, 10 = worst)<sup>1</sup></b>					4.45

1. Note that the weighted non-normalized score is capped at 95, as described in the text.

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## Selecting and training coders

- Selection of coders: Qualified labour lawyers experienced in working with ILO supervisory system
- Training: 1 week training provided to coders
  - Stage 1: Introduction to the key elements of the method
  - Stage 2: Introduction to the setting up of database, documentation and formatting rules
  - Stage 3: Introduction to general coding rules and testing the setting up of the database for selected countries
  - Stage 4: Introduction to source-specific coding rules and carrying out the first round of coding for selected countries
  - Stage 5: Review and discussion of coding results
- Supervision of coders: Senior coder holding weekly meetings
- Inter-coder reliability: For selected countries, each coder assigned to cross-check other coders' results

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# Continuity and updating

- Method is designed to meet the requirement of annual coding and updating
- Coding has been done for years 2000, 2005, 2009 and 2012, as well as SDG baseline year 2015 and 2016